Ill., opposing reduction of the Philippine tariff on tobacco—to the Committee on Ways and Means.

Also, petition of Barnhart Brothers & Spindler, favoring bill H. R. 16560—to the Committee on Patents.

Also, petition of the thirty-sixth legislative assembly of New Mexico, against making one State of New Mexico and Arizona—to the Committee on the Territories.

By Mr. GRIFFITH: Paper to accompany bill for relief of Samuel H. Wilson—to the Committee on Invalid Pensions.

By Mr. HINSHAW: Petition of the Woman's Christian Temperance Union of Adams, Nebr., against liquor selling on all Government premises—to the Committee on Public Buildings and Grounds.

By Mr. HOWELL of Utah: Petition of the commissioners of Carbon County, Utah, requesting establishment of additional land office at Price, Utah—to the Committee on the Public Lands.

Also, petition of Wasatch Division, No. 124, Order of Railway Conductors, of Ogden, Utah, to hasten passage of bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of the locomotive engineers of Utah, favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. JACKSON of Ohio: Paper to accompany bill for relief of Mrs. A. W. Kelley, of Kelleys Island—to the Committee on Invalid Pensions.

Also, petition of Denver Chamber of Commerce, against any reduction of the tariff on sugar—to the Committee on Ways and Means.

By Mr. KNAPP: Petition of Indian River Chair Company, favoring enactment of bill H. R. 9302—to the Committee on Ways and Means.

By Mr. KNOWLAND: Paper to accompany bill for relief of Frank A. Leach, superintendent of the United States mint at San Francisco—to the Committee on Claims.

By Mr. LACEY: Petition of citizens of Nevada, Iowa, against law to regulate Sabbath observance in the District of Columbia—to the Committee on the District of Columbia.

By Mr. MILLER: Petition of citizens of Wabaunsee, Kans., favoring bill H. R. 4072—to the Committee on the Judiciary.

By Mr. PATTERSON of Tennessee: Petition of Mrs. Patti Rodgers Crawford, heir of William H. Rodgers, asking reference of claim to Court of Claims—to the Committee on War Claims.

Also, paper to accompany bill for relief of Robert Polk, of Hardeman County, Tenn.—to the Committee on War Claims.

Also, petition of T. J. Latham, administrator of Elizabeth Waldridge, of Shelby County, Tenn., asking reference of claim to Court of Claims—to the Committee on War Claims.

Also, petition of Sallie J. Valentine, widow of T. J. Valentine, deceased, late of Hardeman County, Tenn., asking reference of claim to Court of Claims—to the Committee on War Claims.

Also, petition of John A. Moore, of Tipton County, Tenn., asking reference of claim to Court of Claims—to the Committee on War Claims.

By Mr. PORTER: Petition of the Mount Washington Young Women's Christian Temperance Union, of Pittsburg, Pa., favoring passage of bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of the Young Women's Christian Temperance Union of Bellevue, Pa., against repeal of the present canteen law—to the Committee on Military Affairs.

Also, petition of 48 members of the Young Women's Christian Temperance Union of Bellevue, Pa., favoring bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of Mrs. G. M. Sloan et al., of the Sterrit Woman's Christian Temperance Union, favoring bill H. R. 4072—to the Committee on the Judiciary.

Also, petition of Mrs. G. M. Sloan et al., against repeal of the canteen law—to the Committee on Military Affairs.

By Mr. RODEY: Petition of Las Vegas (N. Mex.) Brotherhood of Locomotive Engineers, favoring the Bates-Penrose employers' liability bill—to the Committee on the Judiciary.

Also, petition of Division No. 389, Order of Railway Conductors, of Albuquerque, N. Mex., favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. SHEPPARD: Paper to accompany bill for relief of Mrs. Sarah A. Powers, widow of John Powers—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: Paper to accompany bill for relief of B. O. Purvis—to the Committee on Invalid Pensions.

By Mr. TAWNEY: Petition of citizens of Austin, Minn., favoring the Cooper-Quarles bill—to the Committee on Interstate and Foreign Commerce.

By Mr. VAN VOORHIS: Paper to accompany bill for relief of Harvey Dennis, of Guernsey County, Ohio—to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *January 27, 1905.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

CREDENTIALS.

Mr. ELKINS presented the credentials of NATHAN BAY SCOTT, chosen by the legislature of the State of West Virginia a Senator from that State for the term beginning March 4, 1905; which were read, and ordered to be filed.

Mr. WETMORE presented the credentials of NELSON W. ALDRICH, chosen by the legislature of the State of Rhode Island a Senator from that State for the term beginning March 4, 1905; which were read, and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the joint resolution (S. R. 94) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1905.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President pro tempore:

H. R. 12898. An act to create a new division in the eastern juricial district of the State of Missouri; and

H. J. Res. 206. Joint resolution to provide for the removal of snow and ice from the cross walks and gutters of the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. PERKINS. I present a telegraphic memorial of the legislature of California, relative to the reimbursement of Frank A. Leach, superintendent of the mint at San Francisco, Cal., in the sum of $25,000 by reason of the commission of a crime committed by a subordinate employee of that mint. I ask that the memorial be printed in the RECORD, and referred to the Committee on Appropriations.

There being no objection, the memorial was referred to the Committee on Appropriations, and ordered to be printed in the RECORD, as follows:

[Telegram.]

SACRAMENTO, CAL., *January 25, 1905.*

Senator GEO. C. PERKINS,
Washington D. C.:

Whereas Frank A. Leach, superintendent of the United States mint at San Francisco, Cal., has solely, by reason of the commission of a crime by a subordinate employee of said mint, been compelled to pay the sum of $25,000 from his private means; and

Whereas it is contemplated that a measure will be introduced in the Congress of the United States providing for the reimbursement of said Frank A. Leach in the sum he has been compelled to pay as aforesaid: Therefore, be it

Resolved, That the assembly and senate of the State of California hereby jointly express approval of any such relief measure introduced in Congress for the aforementioned purpose, and most respectfully recommend the passage of such a measure: Be it

Resolved, That the chief clerk of the assembly is hereby directed to telegraph the substance of these resolutions to each Senator and Representative of the State of California at Washington.

I hereby certify that the above is the substance of a joint resolution adopted by the California senate and assembly by unanimous vote.

CLIO LLOYD, *Chief Clerk of the Assembly.*

Mr PERKINS presented a petition of sundry citizens of San Pedro, Cal., praying that an appropriation be made for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

Mr. BARD presented the petition of J. F. Russell and 29 other citizens of Riverside County, Cal., praying for continued prohibition in the Indian Territory; which was ordered to lie on the table.

Mr. PLATT of New York presented a petition of the congregation of the First Church of Christ of Kingston, N. Y., and a petition of the Woman's Synodical Society of Home Missions, of Hudson, N. Y., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a petition of the Chamber of Commerce of Watertown, N. Y., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented petitions of Local Division No. 41, Brother-

hood of Locomotive Engineers, of Elmira; of Smith M. Weed Lodge, No. 540, Brotherhood of Railroad Trainmen, of Plattsburg; of Local Division, Brotherhood of Locomotive Firemen, of Middletown; of L. R. Skinner Lodge, No. 276, Brotherhood of Locomotive Firemen, of Buffalo; of Independent Division No. 374, of Elmira; of New York City Division, No. 54, of New York City, and of Steuben Division, No. 225, of Hornellsville, all of the Order of Railway Conductors, in the State of New York, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented a petition of Grand Lodge Junior Independent Order of Good Templars, of New York City, and a petition of the congregation of the First Presbyterian Church of New York City, praying for the enactment of legislation providing for continued prohibition of the liquor traffic in the Indian Territory according to recent agreements with the Five Civilized Tribes; which were ordered to lie on the table.

He also presented memorials of Local Union No. 106, of Ogdensburg; of Local Union No. 74, of Poughkeepsie, and of Local Union No. 5, of Rochester, all of the Cigar Makers' International Union of America; of Charles Hasel & Co., of New York City; of C. C. Hamilton & Co., of New York City, and of V. Mancebo, Muina & Co., of New York City, all in the State of New York, remonstrating against any reduction of the duty on tobacco and cigars imported from the Philippine Islands; which were referred to the Committee on the Philippines.

He also presented a petition of the Chamber of Commerce, of Watertown, N. Y., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of the German-American Button Company, of Rochester, N. Y., and a petition of the S. S. Stafford Company, of New York City, praying for the enactment of legislation authorizing the registration of trade-marks used in commerce with foreign nations or among the several States and Territories; which were referred to the Committee on Patents.

He also presented petitions of the Rafter's Pharmacy, of New York City; of Frederick Trau & Co., of New York City; and of Scavo Brothers, of New York City, praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

He also presented a petition of the New York Board of Trade and Transportation, of New York City, praying for the enactment of legislation referring all international disputes and controversies to a permanent court of arbitration; which was referred to the Committee on Foreign Relations.

Mr. GALLINGER presented a petition of the congregation of the Methodist Episcopal Church of Pittsburg, N. H., praying for the enactment of legislation authorizing the extension and improvement of Massachusetts and Boundary avenues NW., in the city of Washington, D. C.; which was referred to the Committee on the District of Columbia.

He also presented the petitions of Ruth Tunnicliff, of Chicago, Ill.; of Madeleine Wallin Sikes, of Chicago, Ill., and of John D. Sleman, jr., of Washington, D. C., praying for the enactment of legislation authorizing compulsory education in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented the memorial of Dr. Robert Reyburn, of Washington, D. C., relative to a proposed change in the form of government for the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. KITTREDGE presented a petition of James River Lodge, No. 673, Brotherhood of Railroad Trainmen, of Aberdeen, S. Dak., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

Mr. DRYDEN presented petitions of the Woman's Christian Temperance Union of Pemberton, of the Woman's Club of Salem, of the Woman's Christian Temperance Union of Lumberton, of sundry citizens of Dunellen, and of sundry citizens of Greenwich, all in the State of New Jersey, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

He also presented a petition of Janeway & Co., of New Brunswick, N. J., and a petition of the National Business League of Chicago, Ill., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented a petition of Palisade Lodge, No. 592, Brotherhood of Railroad Trainmen, of Jersey City, N. J., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Equal Suffrage League of Plainfield, N. J., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of the American Federation of Musicians of Washington, D. C., praying for the enactment of legislation to increase the salaries of members of the United States Marine Band; which was referred to the Committee on Naval Affairs.

He also presented a petition of the Lembeck and Betz Eagle Brewing Company, of Jersey City, N. J., praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented memorials of the Woman's Christian Temperance Union of Mullica Hill; of the Woman's Christian Temperance Union of East Orange; of the Woman's Christian Temperance Union of Bedminster; of the Woman's Christian Temperance Union of Vineland; of the Washington Street Baptist Church, of East Orange; of Mickleton Grange, No. 111, Patrons of Husbandry, of Mickleton; of the Woman's Christian Temperance Union of Ocean Grove; of the congregation of St. Paul's Church, of Ocean Grove; of the First Methodist Episcopal Church of Cape May City; of the Woman's Christian Temperance Union of Cape May City; of the Christian Church of Hope, and of sundry citizens, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

He also presented petitions of the National Woman's Christian Temperance Union of Washington, D. C.; of the Woman's Club of Orange; of Joseph Stoker and 58 other citizens of Moorestown, and of the Synod of the New Jersey Presbyterian Church, of Atlantic City, all in the State of New Jersey, praying for the enactment of legislation providing for continued prohibition of the liquor traffic in the Indian Territory according to recent agreements with the Five Civilized Tribes; which were ordered to lie on the table.

He also presented the petition of Alex. C. Wood, of Camden, N. J., praying for the enactment of legislation authorizing the registration of trade-marks used in commerce with foreign nations or among the several State and Territories; which was referred to the Committee on Patents.

He also presented petitions of the Jersey City Drug Association, of Jersey City; of Samuel Sykes, of Paterson, and of the Retail Drug Association of Paterson, all in the State of New Jersey, praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

Mr. HALE presented a petition of Pine Tree Division, No 66, Order of Railway Conductors, of Portland, Me., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented the memorial of George H. Hunt and 21 other citizens of Maine, remonstrating against ceding the Isle of Pines to Cuba; which was referred to the Committee on Foreign Relations.

Mr. CULLOM presented a memorial of the congregation of the German Methodist Episcopal Church of Altamont, Ill., remonstrating against the repeal of the present anticanteen law; which was referred to the Committee on Military Affairs.

He also presented a petition of sundry citizens of Illinois, praying for the enactment of legislation amending the patent laws relating to medicinal preparations; which was referred to the Committee on Patents.

Mr. BEVERIDGE presented petitions of sundry citizens of Indianapolis, of the Indiana Millers' Association of Middletown, and of the Fruit and Produce Commission Merchants' Exchange of Indianapolis, all in the State of Indiana., and of the Lumber Dealers' Association of Chicago, Ill., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which were referred to the Committee on Interstate Commerce.

He also presented a petition of the congregation of the First Friends' Church of Indianapolis, Ind., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of the Chamber of Commerce of Shawnee, Okla., praying for the passage of the so-called "statehood bill;" which was ordered to lie on the table.

He also presented petitions of sundry citizens of Portland, of the Commercial Club of Muncie, and of sundry citizens of Newcastle, all in the State of Indiana, praying for the enactment of

legislation providing for the holding of terms of the Federal courts at Muncie, in that State; which were referred to the Committee on the Judiciary.

He also presented petitions of the Dodge Manufacturing Company, of Mishawaka; of the W. D. Allison Company, of Indianapolis; of Eli Lilly & Co., of Indianapolis; of the Retail Druggists' Association of Lafayette, and of W. H. Olds, of Fort Wayne, all in the State of Indiana, and of the Retail Druggists' Association of Chicago, Ill., praying for the enactment of legislation to amend the patent laws relating to medicinal preparations; which were referred to the Committee on Patents.

He also presented petitions of sundry citizens of South Bend, Richmond, Plymouth, Madison County, Goshen, and Winamac, all in the State of Indiana, praying for the enactment of legislation providing for continued prohibition of the liquor traffic in the Indian Territory according to recent agreements with the Five Civilized Tribes; which were ordered to lie on the table.

He also presented petitions of Inland City Lodge, No. 374, Brotherhood of Railroad Trainmen, of Indianapolis; of Lafayette Division, No. 302, Order of Railway Conductors, of Lafayette; of Elkhart Division, No. 19, Order of Railway Conductors, of Elkhart; of Echo Lodge, No. 157, Brotherhood of Locomotive Firemen, of Peru; of Washington Division, No. 339, Order of Railway Conductors, of Washington; of Local Division No. 246, Brotherhood of Locomotive Engineers, of Evansville, and of Clover Leaf Division, No. 254, Order of Railway Conductors, of Frankfort, all in the State of Indiana, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

Mr. PATTERSON presented a memorial of the legislative assembly of the Territory of New Mexico, remonstrating against the admission of the Territories of Arizona and New Mexico into the Union as one State; which was ordered to lie on the table.

He also presented a memorial of Colorado Commandery, Military Order of the Loyal Legion, of Denver, Colo., remonstrating against the enactment of legislation affecting the right to wear badges and military insignia; which was referred to the Committee on Military Affairs.

He also presented a petition of sundry citizens of Boulder County, Colo., praying for the enactment of legislation providing for continued prohibition of the liquor traffic in the Indian Territory according to recent agreements with the Five Civilized Tribes; which was ordered to lie on the table.

Mr. McCUMBER presented a memorial of the Tri-State Grain and Stock Growers' Association, of Minnesota and North and South Dakota, remonstrating against the enactment of legislation providing for the importation of seed wheat from Canada; which was referred to the Committee on Finance.

He also presented a memorial of the Tri-State Grain and Stock Growers' Association, of Minnesota and North and South Dakota, remonstrating against the enactment of legislation providing for drawbacks or rebates on Canadian wheat; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Tri-State Grain and Stock Growers' Association, of Minnesota and North and South Dakota, praying for the enactment of legislation to enlarge the scope, research, and scientific investigation of State experiment stations; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Tri-State Grain and Stock Growers' Association, of Minnesota and North and South Dakota, praying for the enactment of legislation providing for national inspection of all grains; which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Tri-State Grain Growers' Association, of Minnesota and North and South Dakota, remonstrating against any change or modification of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

Mr. GORMAN presented a petition of the White Oak Farmers' Club, of Colesville, Md., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Woman's Christian Temperance Union of Kennedyville, Md., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented an affidavit to accompany the bill (S. 2477) for the relief of Sarah C. Harsh; which was referred to the Committee on Claims.

Mr. McCOMAS presented a petition of the Harlem Park Woman's Christian Temperance Union, of Baltimore, Md., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in all Government buildings, grounds, and ships; which was referred to the Committee on Public Buildings and Grounds.

He also presented the affidavit of Richard J. Ward, to accompany the bill (S. 5855) for the relief of the heirs of Marjorie Ward, deceased; which was referred to the Committee on Claims.

Mr. NELSON presented a petition of Local Lodge, No. 122, Brotherhood of Railway Trainmen, of St. Paul, Minn., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Tri-State Grain and Stock Growers' Association of Minnesota, North and South Dakota, praying that ample appropriations be made for the maintenance of the Department of Agriculture; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Tri-State Grain and Stock Growers' Association of Minnesota, North and South Dakota, praying for the enactment of legislation relative to rebate of freight charges, etc.; which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Tri-State Growers' Association of Minnesota, North and South Dakota, praying for the enactment of legislation extending and enlarging the scope of research and scientific investigation of the State experiment stations; which was referred to the Committee on Agriculture and Forestry.

Mr. PENROSE presented a petition of the congregation of the Presbyterian Church of McVeytown, Pa., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of the Pennsylvania Dairy Union, praying for the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of sundry citizens of Mauchchunk, Pa., praying for the enactment of legislation providing more stringent laws and regulations governing immigration; which was referred to the Committee on Immigration.

Mr. SPOONER presented a joint resolution of the legislature of Wisconsin, relative to enlarging the powers of the Interstate Commerce Commission; which was read, and referred to the Committee on Interstate Commerce, as follows:

Joint resolution No. V.—S.

Whereas the present interstate commerce law has, by experience, been proven to be ineffectual in securing to the people just and reasonable rates for the transportation of persons and property; and

Whereas great and continuous effort has been made to secure Congressional legislation, to the end that the Interstate Commerce Commission be given such power as to insure the establishment and maintenance of just and reasonable rates for such transportation to the people of this country; and

Whereas President Roosevelt has made recommendations to Congress, in his recent message, that "the Interstate Commerce Commission should be vested with the power, where a given rate (for the transportation of property in interstate or foreign commerce) has been challenged, and, after full hearing, found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately and to obtain, unless, and until, it is reversed by the court of review:" Therefore, be it

Resolved by the senate (the assembly concurring), That we respectfully memorialize the Fifty-eighth Congress of the United States to enact at its present session such legislation as shall comply in letter and spirit with the said recommendations of President Roosevelt; and we respectfully demand of the Senators and Representatives, and each of them, representing this State in the Congress of the United States, to vote for and urge to the best of their ability the immediate enactment into law of such proposed legislation; and be it further

Resolved, That a copy of the foregoing be immediately transmitted by the secretary of state to the President of the United States, the President of the Senate of the United States, and to the Speaker of the House of Representatives, and to each of the Senators and Representatives from this State.

J. O. DAVIDSON, *President of the Senate.*
L. K. EATON, *Chief Clerk of the Senate.*
J. L. LENROOT, *Speaker of the Assembly.*
C. O. MARSH, *Chief Clerk of the Assembly.*

Mr. MARTIN presented sundry papers to accompany the bill (S. 6060) for the relief of the Presbyterian Church at Fredericksburg, Va.; which were referred to the Committee on Claims.

Mr. MONEY presented sundry papers to accompany the bill (S. 611) for the relief of the estate of J. B. Hall; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1057) for the relief of the estate of John A. Brent; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1114) for the relief of the estate of Jesse M. Brent; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S.

5006) for the relief of Nancy P. Garrison; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1065) for the relief of Mrs. Virginia Grant; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1029) for the relief of the estate of Milton Crawford; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 4945) for the relief of the heirs of John C. McGehee; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 610) for the relief of the estate of Dr. G. G. Noland; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1062) for the relief of the estate of William M. Kimmons; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1113) for the relief of William R. Butler; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1093) for the relief of the estate of John R. Powers; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 4942) for the relief of heirs of Mrs. H. C. Henderson; which were referred to the Committee on Claims.

He also presented a paper to accompany the bill (S. 1104) for the relief of William Parker; which was referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 5004) for the relief of the estate of Elkannah J. Sullivan; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 5008) for the relief of the estate of Mary Wilkens; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill S. 4519; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1101) for the relief of the estate of Alexander Russell; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 5005) for the relief of the heirs of Samuel G. Miller and the estate of Mrs. E. C. Miller; which were referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 1092) for the relief of M. T. Sigrest; which were referred to the Committee on Claims.

Mr. FRYE presented a memorial of Cushnoc Grange, Patrons of Husbandry, of Riverside, Me., remonstrating against the repeal of the present oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Pine Tree Division, No. 66, Brotherhood of Railroad Conductors, of Portland, Me., praying for the passage of the so-called "employers' liability bill;" which was referred to the Committee on Interstate Commerce.

He also presented a memorial of Local Union No. 634, Brotherhood of Painters, Decorators, and Paperhangers, of Wilmington, Del., remonstrating against the proposed increase in the Army and Navy; which was referred to the Committee on Military Affairs.

He also presented the memorial of Ellis Cusher and 20 other citizens of Beach, Ind. T., remonstrating against the passage of the bill granting statehood to the Indian Territory; which was ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of Watertown, N. Y., and a petition of the National Board of Trade, praying for the ratification of international arbitration treaties; which were referred to the Committee on Foreign Relations.

COMPULSORY EDUCATION IN THE DISTRICT OF COLUMBIA.

Mr. GALLINGER. I present a memorial of the Civic Center of the city of Washington relative to compulsory education in the District of Columbia. I have been requested by some very prominent educators in the District to ask that the memorial may be printed. I move that it be printed as a document and referred to the Committee on the District of Columbia.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. SCOTT, from the Committee on the District of Columbia, to whom was referred the bill (S. 6514) for the relief of the Church of Our Redeemer, Washington, D. C., reported it without amendment, and submitted a report thereon.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15199) granting a pension to Mary J. Lansing, formerly Mary J. Abbott;

A bill (H. R. 13955) granting an increase of pension to Elijah G. Wood;

A bill (H. R. 7014) granting an increase of pension to James J. Boyd;

A bill (H. R. 13007) granting an increase of pension to Frederick B. Schnebly;

A bill (H. R. 12488) granting an increase of pension to George H. Coddington;

A bill (H. R. 16842) granting an increase of pension to Lydia P. Kelly;

A bill (H. R. 16392) granting an increase of pension to John Tusing;

A bill (H. R. 11055) granting an increase of pension to Winfield S. Russell;

A bill (H. R. 17139) granting an increase of pension to George W. Jennings;

A bill (H. R. 3710) granting an increase of pension to Thomas C. Johnson;

A bill (H. R. 3427) granting an increase of pension to Albert Fetterhoff;

A bill (H. R. 3426) granting a pension to George W. Craig;

A bill (H. R. 15328) granting a pension to William H. H. Simpkins;

A bill (H. R. 11613) granting an increase of pension to Alexander H. Sockman;

A bill (H. R. 15097) granting a pension to William H. Miller;

A bill (H. R. 10181) granting an increase of pension to Andrew Hall;

A bill (S. 1299) granting a pension to John M. Reimer; and

A bill (S. 5382) granting a pension to Sarah A. Morris.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 6467) granting an increase of pension to Jonathan Story;

A bill (S. 2456) granting a pension to William G. Bradley;

A bill (S. 107) granting an increase of pension to Joel H. Warren;

A bill (S. 68) granting an increase of pension to Martha M. Bolton;

A bill (S. 3075) granting an increase of pension to Emma J. Kanady;

A bill (S. 4918) granting an increase of pension to Merida P. Tate; and

A bill (S. 6357) granting an increase of pension to Alvan P. Granger.

Mr. PATTERSON, from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 6466) granting an increase of pension to John W. Kennedy;

A bill (S. 101) granting an increase of pension to James M. Shippee;

A bill (S. 6354) granting an increase of pension to Pierce McKeogh;

A bill (S. 1946) granting an increase of pension to Edward J. Palmer;

A bill (S. 3864) granting an increase of pension to Dean W. King;

A bill (S. 2304) granting an increase of pension to Samuel S. Merrill; and

A bill (S. 5160) granting an increase of pension to Harriett P. Gray.

Mr. OVERMAN, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 10027) granting a pension to Green W. Hodge;

A bill (H. R. 9405) granting a pension to Andrew Long; and

A bill (H. R. 10096) granting a pension to Louise E. Lavey.

Mr. KITTREDGE, from the Committee on Patents, to whom was referred the bill (H. R. 6487) to amend section 4952 of the Revised Statutes, reported it with an amendment, and submitted a report thereon.

Mr. MARTIN, from the Committee on Claims, to whom was referred the bill (S. 6568) for the relief of the Richmond Locomotive Works, successor of the Richmond Locomotive and Machine Works, reported it with an amendment, and submitted a report thereon.

Mr. GORMAN, from the Committee on the District of Columbia, to whom was referred the bill (S. 6646) authorizing the Commissioners of the District of Columbia to furnish Po-

tomac water without charge to charitable institutions, and so forth, in the District of Columbia, reported it without amendment, and submitted a report thereon.

Mr. GALLINGER, from the Committee on the District of Columbia, to whom was referred the bill (S. 6513) for the widening of a section of Columbia road east of Sixteenth street, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 6758) to close and open an alley in square No. 806, in the city of Washington, D. C., reported it without amendment, and submitted a report thereon.

STATUE OF JOHN JAMES INGALLS.

Mr. PLATT of New York, from the Committee on Printing, to whom was referred the concurrent resolution submitted by Mr. LONG on the 23d instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in one volume the proceedings in Congress upon the acceptance of the statue of the late John James Ingalls 16,500 copies, of which 5,000 shall be for the use of the Senate, 10,000 for the use of the House of Representatives, and the remaining 1,500 shall be for use and distribution by the governor of Kansas; and the Secretary of the Treasury is hereby directed to have printed an engraving of said statue to accompany said proceedings, said engraving to be paid for out of the appropriation for the Bureau of Engraving and Printing.

QUARTERS FOR TROOPS AT THE INAUGURATION.

Mr. GALLINGER. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (S. R. 96) authorizing temporary use of certain vacant houses in square No. 686, in Washington City, and for other purposes, to report it favorably with amendments, and to ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The amendments of the Committee on the District of Columbia were, in line 12, before the word "Superintendent," to strike out "such" and insert "said;" and in the same line, after the word "Superintendent," to insert "of the Capitol Building and Ground;" so as to make the joint resolution read:

Resolved, etc., That such of the vacant houses in square 686 in the city of Washington, now in the ownership of the United States, as may be designated for such purposes by the Superintendent of the United States Capitol Building and Grounds, may be used by the National Guard of the States and Territories as quarters on the occasion of the inauguration of the President of the United States March 4, 1905, such use and occupation not to extend beyond March 6 and to be subject to the control of said Superintendent of the Capitol Building and Grounds.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A joint resolution authorizing temporary use of certain vacant houses in square 686 in the city of Washington, and for other purposes."

M. L. SKIDMORE.

Mr. OVERMAN. I am directed by the Committee on Claims, to whom was referred the bill (S. 6733) for the relief of M. L. Skidmore, to report it favorably without amendment, and I submit a report thereon. I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to refund $104.94 to M. L. Skidmore, of Gaston County, N. C., by the United States Treasury, the same being for internal-revenue stamps purchased by him from the United States Government to cover taxes on two several packages of spirits, Nos. 138 and 139, produced in the month of May, 1896, by Skidmore, which stamps were lost in the mail and never received by him.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL MILITARY RESERVATION AT CHATTANOOGA, TENN.

Mr. BATE. I am instructed by the Committee on Military Affairs, to whom were referred the joint resolution (S. R. 89) authorizing the Secretary of War to transfer to the militia cavalry organization at Chattanooga, Tenn., a certain unused portion of the national military reservation at Chattanooga, Tenn., and the joint resolution (H. J. Res. 181) authorizing the Secretary of War to transfer to the militia cavalry organization at Chattanooga, Tenn., a certain unused portion of the national military reservation at Chattanooga, Tenn., to report them favorably. The Senate joint resolution may be indefinitely postponed and the House joint resolution substituted for it, and I ask that the House joint resolution be now considered.

The PRESIDENT pro tempore. The House joint resolution will be read.

The Secretary read the joint resolution; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BATE. I move that Senate joint resolution 89 be indefinitely postponed.

The motion was agreed to.

REPORT OF COMMISSION ON INTERNATIONAL EXCHANGE.

Mr. ALDRICH, from the Committee on Finance, reported the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in cloth 10,000 copies of the final report of the Commission on International Exchange, together with the appendixes thereto, of which 2,000 shall be for the use of the Senate, 4,000 for the use of the House of Representatives, and 4,000 for the use of the Commission.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Mr. WARREN introduced a bill (S. 6901) granting an increase of pension to Allen Thompson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. McENERY introduced a bill (S. 6902) for the relief of the estates of John A. Sigur, deceased, and of Theodore Sigur, deceased; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6903) for the relief of Adolph Hartiens; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. MONEY. I introduce sundry bills which, with the affidavits supporting them, I wish to have referred to the Committee on Claims.

The bills were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims, as follows:

A bill (S. 6904) for the relief of Frank Harris;

A bill (S. 6905) for the relief of the estate of Mrs. E. J. Matlock, deceased;

A bill (S. 6906) for the relief of the estate of William A. Jeffries, deceased;

A bill (S. 6907) for the relief of the estate of Moses M. Smith, deceased;

A bill (S. 6908) for the relief of Willis J. Moran;

A bill (S. 6909) for the relief of Minor Saunders;

A bill (S. 6910) for the relief of Hampton Wall;

A bill (S. 6911) for the relief of the heirs of Hiram G. Robertson and Charlotte G. Robertson, deceased;

A bill (S. 6912) for the relief of the estate of Andrew B. Conley, deceased;

A bill (S. 6913) for the relief of the heirs of W. T. Eason, deceased;

A bill (S. 6914) for the relief of the estate of Francis Griffing, deceased;

A bill (S. 6915) for the relief of the estate of J. B. Lewis, deceased;

A bill (S. 6916) for the relief of the estate of Edmund Kennedy, deceased;

A bill (S. 6917) for the relief of the estate of William R. Morris, deceased; and

A bill (S. 6918) for the relief of Charles A. Kincaid.

Mr. BEVERIDGE introduced a bill (S. 6919) granting an increase of pension to August McDaniel; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6920) for the relief of Isaac D'Isay; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. PATTERSON introduced a bill (S. 6921) granting an increase of pension to George W. Cole; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CRANE introduced a bill (S. 6922) granting a pension to Sarah Ferry; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DUBOIS introduced a bill (S. 6923) for the construction of a private conduit across D street NW.; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TALIAFERRO inroduced a bill (S. 6924) granting an increase of pension to Richard H. McIntire; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6925) granting an increase of

pension to Laura C. Curtiss; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. McCUMBER introduced a bill (S. 6926) granting an increase of pension to Nellie F. O'Kane; which was read twice by its title, and referred to the Committee on Pensions.

Mr. SCOTT introduced a bill (S. 6927) for the relief of L. S. Strauss; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. GAMBLE introduced a bill (S. 6928) granting an increase of pension to Daniel M. Walker; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FRYE introduced a bill (S. 6929) to establish a light and fog-signal station at Robinsons Point, Isle au Haut thoroughfare, Maine; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 6930) granting an increase of pension to Helen S. Wright; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALDRICH introduced a bill (S. 6931) for the relief of the executors of the estate of Harold Brown, deceased; which was read twice by its title, and referred to the Committee on Finance.

Mr. PENROSE introduced a bill (S. 6932) granting a pension to Elizabeth De Huff; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6933) granting a pension to George W. Lewis; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. GALLINGER introduced a joint resolution (S. R. 99) empowering the Commissioners of the District of Columbia to make regulations respecting places used for market purposes, and authorizing them to establish, regulate, and control markets and change the location of the same within the District of Columbia; which was read twice by its title, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. SMOOT introduced a joint resolution (S. R. 100) providing that certain lands in the Uintah Indian Reservation, State of Utah, shall be subject to withdrawal and use under the provisions of the reclamation act; which was read twice by its title, and referred to the Committee on Indian Affairs.

REGULATION OF COMMERCE.

Mr. MARTIN submitted an amendment intended to be proposed by him to the bill (H. R. 18127) to supplement and amend the act entitled "An act to regulate commerce," approved February 4, 1887; which was referred to the Committee on Interstate Commerce, and ordered to be printed.

AMENDMENTS TO STATEHOOD BILL.

Mr. McCUMBER submitted two amendments intended to be proposed by him to the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States; which were ordered to lie on the table and be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LONG submitted an amendment relative to the alienation of certain allotments of land in the Indian Territory, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. KITTREDGE submitted an amendment proposing to appropriate $59,170 for the support and education of 210 Indian pupils at Chamberlain, S. Dak., etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $150,000 for the purchase of the tract of land known as "Montrose," in the District of Columbia, to be used as a public park, etc., intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. GORMAN submitted an amendment proposing to appropriate $10,000 for continuing the grading of Pennsylvania avenue east from Branch avenue to the District line, in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. FRYE submitted an amendment proposing to increase the salary of the consul at Callao, Peru, to $3,500, intended to be proposed by him to the diplomatic and consular appropriation bill; which was referred to the Committee on Foreign Relations, and ordered to be printed.

HARBOR IMPROVEMENT AT WAUKEGAN, ILL.

Mr. HOPKINS submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to submit plans and estimates for changing the location of that portion of the south pier of the harbor at Waukegan, Ill., which it is necessary to rebuild on account of its decayed condition, and for constructing said portion of the south pier farther south, so as to secure more space for the construction of docks.

KENTUCKY TROOPS IN CIVIL WAR.

Mr. McCREARY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, directed to transmit to the Senate a statement showing the various classes of Kentucky volunteers, militia, and home guards that were in service during the civil war, the designations of the organizations composing them, and the laws, orders, and regulations under which they were raised; also what organizations or classes of these troops are recognized by the War Department as having been in the military service of the United States and what organizations or classes are not so recognized.

TRANSFER OF CLERKS IN POST-OFFICE DEPARTMENT.

Mr. CLAY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster-General be, and he is hereby, directed to inform the Senate the number of clerks heretofore detailed annually from the Post-Office Department to perform service for the Civil Service Commission.

Second. He is also directed to inform the Senate what number of clerks will likely be transferred from the Post-Office Department to permanent positions with the Civil Service Commission by reason of the adoption of an amendment to the legislative, executive, and judicial appropriation bill, making appropriations for the fiscal year ending June 30, 1906.

Third. He is also directed to specially inform the Senate if it is true that a like reduction of clerks will be made in the Post-Office Department by reason of such transfers to the Civil Service Department; in other words, if new places are provided for clerks from the Post-Office Department with the Civil Service Commission, will there be a like reduction in the Post-Office Department?

ELIZABETH C. HILLS.

Mr. GALLINGER submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay to Elizabeth C. Hills, daughter of Edwin A. Hills, deceased, late a messenger in the Senate of the United States, a sum equal to one year's salary at the rate he was receiving by law at the time of his demise, said sum to be considered as including funeral expenses and all other allowances.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On January 24, 1905:

S. 266. An act granting a pension to Emma S. Harney;

S. 424. An act granting a pension to George W. Lehman;

S. 1413. An act granting a pension to Louisa D. Miller;

S. 2009. An act granting a pension to Richard Dunn;

S. 2333. An act granting a pension to Benjamin F. Hall;

S. 2915. An act granting a pension to Mary Williamson;

S. 316. An act granting an increase of pension to Elmore Y. Chase;

S. 377. An act granting an increase of pension to Ezra W. Cartwright;

S. 552. An act granting an increase of pension to Ira K. Eaton;

S. 554. An act granting an increase of pension to Thomas P. Farley;

S. 566. An act granting an increase of pension to William H. Hart;

S. 567. An act granting an increase of pension to William Cody;

S. 776. An act granting an increase of pension to Calvin H. Morris;

S. 784. An act granting an increase of pension to Beverly Waugh;

S. 801. An act granting an increase of pension to Samuel L. D. Goodale;

S. 844. An act granting an increase of pension to Mary L. Duff;

S. 850. An act granting an increase of pension to Henry V. Sims;

S. 1207. An act granting an increase of pension to James D. Stewart;
S. 1208. An act granting an increase of pension to Samuel G. Magruder;
S. 1539. An act granting an increase of pension to Edward Shiflett;
S. 1541. An act granting an increase of pension to Commodore P. Hall;
S. 1810. An act granting an increase of pension to George W. Thomas;
S. 1830. An act granting an increase of pension to Sarah E. Austin;
S. 1981. An act granting an increase of pension to Elizabeth V. Reynolds;
S. 1996. An act granting an increase of pension to William R. Williams;
S. 2096. An act granting an increase of pension to John W. Millett;
S. 2117. An act granting an increase of pension to Philip L. Hiteshew.
S. 2212. An act granting an increase of pension to Charles N. Wood;
S. 2231. An act granting an increase of pension to Bessie M. Dickinson;
S. 2238. An act granting an increase of pension to William Strawn;
S. 2274. An act granting an increase of pension to Joseph J. Carson;
S. 2286. An act granting an increase of pension to James Thompson;
S. 2287. An act granting an increase of pension to Samuel J. Brainard;
S. 2310. An act granting an increase of pension to William Dar;
S. 2339. An act granting an increase of pension to Carolina Apfel;
S. 2492. An act granting an increase of pension to George G. Tuttle;
S. 2493. An act granting an increase of pension to Alfred Tichurst;
S. 2518. An act granting an increase of pension to Clarinda A. Spear;
S. 2574. An act granting an increase of pension to Nelson Purcell;
S. 2581. An act granting an increase of pension to Myron D. Hill;
S. 2848. An act granting an increase of pension to William H. Lewis;
S. 2850. An act granting an increase of pension to Sallie J. Calkins;
S. 2890. An act granting an increase of pension to Andrew C. Kemper;
S. 2945. An act granting an increase of pension to Sallie M. Nuzum;
S. 2972. An act granting an increase of pension to Thomas Boyle; and
S. 3001. An act granting an increase of pension to Adrianna Lowell.

On January 25, 1905:

S. 5508. An act granting a pension to Abraham B. Miller;
S. 5530. An act granting a pension to William R. Cahoon;
S. 4766. An act granting an increase of pension to Frederick Clark;
S. 4767. An act granting an increase of pension to Henry Snidemiller;
S. 4808. An act granting an increase of pension to John Worley;
S. 4986. An act granting an increase of pension to Philo S. Bartow;
S. 5120. An act granting an increase of pension to William H. Chamberlin;
S. 5129. An act granting an increase of pension to Thompson Martin;
S. 5190. An act granting an increase of pension to William Berry;
S. 5206. An act granting an increase of pension to Lucy Jane Ball;
S. 5214. An act granting an increase of pension to William P. Renfro;
S. 5271. An act granting an increase of pension to Paul Diebitsch;
S. 5297. An act granting an increase of pension to Jerry L. Gray;
S. 5339. An act granting an increase of pension to Sidney B. Hamilton;
S. 5345. An act granting an increase of pension to Thomas Coughlin;
S. 5346. An act granting an increase of pension to Amon A. Webster;
S. 5358. An act granting an increase of pension to Thomas Taylor;
S. 5378. An act granting an increase of pension to John H. Ash;
S. 5379. An act granting an increase of pension to Bird Solomon;
S. 5427. An act granting an increase of pension to Ruhema C. Horsman;
S. 5428. An act granting an increase of pension to Joseph J. Hedrick;
S. 5445. An act granting an increase of pension to Caroline L. Guild;
S. 5450. An act granting an increase of pension to George R. Lingenfelter;
S. 5472. An act granting an increase of pension to Mary J. Weems;
S. 5476. An act granting an increase of pension to Joel F. Howe;
S. 5496. An act granting an increase of pension to Jesse L. Sanders;
S. 5512. An act granting an increase of pension to John W. Carleton;
S. 5514. An act granting an increase of pension to Samuel S. Lamson;
S. 5531. An act granting an increase of pension to Catherine Jones;
S. 5532. An act granting an increase of pension to Edwin A. Knight;
S. 5535. An act granting an increase of pension to Alexander McConneha;
S. 5558. An act granting an increase of pension to Susan C. Schroeder;
S. 5572. An act granting an increase of pension to Alafair Chastain;
S. 5574. An act granting an increase of pension to Colon Thomas;
S. 5589. An act granting an increase of pension to Mary E. Burrell;
S. 5661. An act granting an increase of pension to Daniel B. Bush;
S. 5713. An act granting an increase of pension to Robert Crowther;
S. 5714. An act granting an increase of pension to John McKenne;
S. 5715. An act granting an increase of pension to Benjamin Bickford;
S. 5716. An act granting an increase of pension to Dotha J. Whipple;
S. 5733. An act granting an increase of pension to Monroe W. Wright;
S. 5734. An act granting an increase of pension to George H. Woodbury;
S. 5735. An act granting an increase of pension to Washington Lenhart;
S. 5736. An act granting an increase of pension to Charles E. Gilbert;
S. 5738. An act granting an increase of pension to Enoch Russell;
S. 5739. An act granting an increase of pension to Adolphe Bessie;
S. 5740. An act granting an increase of pension to Clemon Clooten;
S. 5741. An act granting an increase of pension to Stephen Welch;
S. 5742. An act granting an increase of pension to Nickles Dockendorf;
S. 5743. An act granting an increase of pension to James Riordan;
S. 5858. An act granting an increase of pension to John Hubbard;
S. 5859. An act granting an increase of pension to Henry Breslin;
S. 3076. An act granting a pension to Arthur W. Post;
S. 3390. An act granting a pension to Emily E. Cram;
S. 4199. An act granting a pension to William Rufus Kelly;
S. 3100. An act granting an increase of pension to Howard Wiley;
S. 3232. An act granting an increase of pension to William O. Gould;
S. 3239. An act granting an increase of pension to George W. D. Buchanan;

S. 3286. An act granting an increase of pension to Charles D. Creed;
S. 3356. An act granting an increase of pension to Rebecca A. Teter;
S. 3357. An act granting an increase of pension to Welcom B. French;
S. 3453. An act granting an increase of pension to David Whitney;
S. 3482. An act granting an increase of pension to Alfred H. LeFevre;
S. 3522. An act granting an increase of pension to Samuel J. Denison;
S. 3624. An act granting an increase of pension to Peter D. Moore;
S. 3755. An act granting an increase of pension to William H. Covert;
S. 3774. An act granting an increase of pension to John C. Felton;
S. 3906. An act granting an increase of pension to James H. Venier;
S. 3935. An act granting an increase of pension to Mary Cornelia Hays Ross;
S. 4002. An act granting an increase of pension to Susan E. Armitage;
S. 4038. An act granting an increase of pension to George E. Yingling;
S. 4070. An act granting an increase of pension to Andrew Fellentreter;
S. 4103. An act granting an increase of pension to John W. Roullett;
S. 4151. An act granting an increase of pension to Thomas J. Spencer;
S. 4221. An act granting an increase of pension to Henry C. Stroman;
S. 4273. An act granting an increase of pension to Frazie A. Campbell;
S. 4382. An act granting an increase of pension to John B. Harvey;
S. 4383. An act granting an increase of pension to Mary E. Penn;
S. 4393. An act granting an increase of pension to Cora A. Baker;
S. 4395. An act granting an increase of pension to Thomas H. Walker;
S. 4408. An act granting an increase of pension to Robert N. Button;
S. 4477. An act granting an increase of pension to John C. Craven;
S. 5744. An act granting an increase of pension to Joseph A. Rhodes;
S. 5745. An act granting an increase of pension to Mary M. Mitchell;
S. 5746. An act granting an increase of pension to Anne Jones;
S. 5758. An act granting an increase of pension to Sallie B. Weber;
S. 5781. An act granting an increase of pension to John A. Steele;
S. 5807. An act granting an increase of pension to Sarah J. F. Robinson;
S. 5810. An act granting an increase of pension to Joseph Reber;
S. 5811. An act granting an increase of pension to Franklin Waller; and
S. 5857. An act granting an increase of pension to James Bryson.

On January 27, 1905:

S. 3728. An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes;
S. 5763. An act granting certain property to the county of Gloucester, N. J.; and
S. R. 17. Joint resolution to provide for the printing of 8,000 copies of the consolidated reports of the Gettysburg National Park Commission, 1893 to 1904, inclusive.

GALENA JOUETT.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4169) granting a pension to Galena Jouett.

The amendment was, in line 8, before the word "dollars," to strike out "fifty" and insert "thirty."

Mr. McCUMBER. I move that the Senate disagree to the amendment of the House of Representatives, and ask for a conference with the House upon the disagreeing votes thereon.

The motion was agreed to.

By unanimous consent, the President pro tempore was authorized to appoint the conferees on the part of the Senate, and Mr. McCUMBER, Mr. SCOTT, and Mr. TALIAFERRO were appointed.

SARAH A. ROWE.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying bill, ordered to lie on the table and be printed.

To the Senate:

In compliance with a resolution of the Senate of the 25th instant (the House of Representatives concurring), I return herewith Senate bill No. 5501, entitled "An act granting an increase of pension to Sarah A. Rowe."

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 27, 1905.*

The PRESIDENT pro tempore. The bill has been returned, the Chair thinks, in compliance with a concurrent resolution submitted by the Senator from North Dakota [Mr. McCUMBER].

Mr. CULLOM. Let it lie on the table until that Senator comes in.

The PRESIDENT pro tempore. It will lie on the table until the Senator from North Dakota is present.

LABOR TROUBLES IN COLORADO.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read:

To the Senate and House of Representatives:

I transmit herewith certain reports by the Commissioner of Labor and the Attorney-General on the labor disturbances in Colorado, together with copies of correspondence between the President and the Attorney-General and the Commissioner of Labor upon the matter; and copies of correspondence between the Secretary of War and the governor of Colorado as to the request of the governor of Colorado for aid by the National Executive in dealing with the labor disturbances.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *January 27, 1905.*

The PRESIDENT pro tempore. The Chair is uncertain as to what committee the message should be referred.

Mr. GALLINGER. To the Committee on Education and Labor, I would suggest.

Mr. TELLER. I could hardly understand, owing to noise in the Chamber, the conclusion of the message, so as to know exactly what it is. I wish that it may lie on the table until I can look at it, and then I will make a suggestion. I do not think it should go to the Committee on Education and Labor. If it goes to any committee, it probably should go to the Committee on the Judiciary or the Committee on Military Affairs.

The PRESIDENT pro tempore. The Chair will retain it on the table for the present and give the Senator an opportunity to examine it. The Chair thinks the matter has been before the Judiciary Committee.

Mr. TELLER subsequently said: It seems to me that the communication from the Executive ought to be printed, and when printed referred to the Committee on the Judiciary. If that should turn out not to be the proper assignment for it, it can be corrected.

Mr. CULLOM. Let the Senator make that motion.

Mr. TELLER. I move that the message and accompanying papers be printed and referred to the Committee on the Judiciary.

The motion was agreed to.

RED RIVER BRIDGE AT SHREVEPORT, LA.

Mr. FOSTER of Louisiana. I ask unanimous consent for the present consideration of the bill (H. R. 17333) to authorize the construction of a bridge across Red River at Shreveport, La.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MILITARY TELEGRAPH OPERATORS.

Mr. SCOTT. I ask unanimous consent for the consideration at this time of the bill (S. 982) amending the act of January 26, 1897, entitled "An act for the relief of telegraph operators who served in the war of the rebellion."

The PRESIDENT pro tempore. The bill will be read to the Senate for its information.

Mr. SCOTT. I think the bill has been heretofore read, Mr. President.

The PRESIDENT pro tempore. The Chair is advised that the bill has been read twice as in Committee of the Whole, and on the last occasion it went over on objection by the senior Senator from Iowa [Mr. ALLISON].

Mr. ALLISON. Mr. President, let it go over again.

The PRESIDENT pro tempore. The Senator from Iowa objects to the present consideration of the bill, and it will go over.

ITALIAN-SWISS AGRICULTURAL COLONY.

Mr. PERKINS. I ask unanimous consent for the present consideration of the bill (H. R. 11370) to relieve the Italian-Swiss Agricultural Colony from the internal-revenue tax on certain spirits destroyed by fire.

The bill was read; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to relieve the Italian-Swiss Agricultural Colony, a corporation organized and existing under the laws of the State of California, from the payment of an assessment, or any part or portion thereof, made against that corporation by the Commissioner of Internal Revenue, amounting to $956.89, the assessment having been placed against the corporation on account of the accidental destruction by fire of 10 barrels of spirits commonly called "grape brandy" while being transported by rail from fruit distillery No. 108, located at Asti, Cal., to winery No. 109, located near Madera, Cal., and before the spirits could be used in the winery for fortifying pure sweet wine; and the Commissioner of Internal Revenue is directed to cancel the assessment without the payment of the aforesaid tax or any part or portion thereof.

Section 2 provides that this act shall take effect immediately after its passage and approval.

Mr. ALLISON. I move to amend by striking out section 2 of the bill.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. It is proposed to strike out section 2, as follows:

SEC. 2. That this act shall take effect immediately after its passage and approval.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ALLISON subsequently said: Mr. President, a few moments ago I moved an amendment to House bill 11370 without understanding at the time that it was a House bill. I now understand that the amendment I proposed having been agreed to will necessitate the return of the bill to the House of Representatives for concurrence therein. The section which was stricken out on my motion is mere surplusage, and of no value one way or the other. Therefore I ask unanimous consent that the votes by which the amendment was agreed to and ordered to be engrossed, and the bill to be read a third time and passed, be reconsidered, so that I may withdraw the amendment.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the vote by which the amendment referred to by him was agreed to and ordered to be engrossed, and the bill ordered to be read a third time and passed, be reconsidered. Is there objection? The Chair hears none, and that order is made.

Mr. ALLISON. I now withdraw the amendment, Mr. President.

The PRESIDENT pro tempore. The Senator from Iowa now asks unanimous consent to withdraw the amendment which he offered. The Chair hears no objection, and the amendment is withdrawn.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RESTORATION TO PUBLIC DOMAIN OF RESERVOIR LANDS.

Mr. NELSON. I ask unanimous consent for the present consideration of the bill (S. 6664) to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law, with certain restrictions.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. LODGE. I should like to hear the report on that bill read, Mr. President.

The PRESIDENT pro tempore. The report will be read.

The Secretary proceeded to read the report submitted by Mr. NELSON January 25, 1905, which is as follows:

The Committee on Public Lands, to whom was referred the bill (S. 6644) to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law, with certain restrictions, having had the same under consideration, beg leave to report it back with the recommendation that it do pass.

A similar bill was introduced in the Fifty-sixth Congress and passed the Senate, but was not reached in the House. The bill as then introduced was referred to the Department, and a favorable report was made upon it with certain suggested amendments. The present bill contains the amendments then suggested. The Senate report made upon the measure in the Fifty-sixth Congress is adopted as the report of the committee and reads as follows:

[Senate Report No. 5, Fifty-sixth Congress, first session.]

The Committee on Public Lands, to whom was referred the bill (S. 718) to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law, with certain restrictions, beg leave to report it back with the recommendation that it do pass.

A bill of the same nature passed the Senate in the Fifty-fifth Congress. The following excerpts are taken from the report submitted in connection with that bill:

By Executive Order No. 872, of November 28, 1881, certain lands in northern Minnesota, around the headwaters of the Mississippi River, were withdrawn from sale and entry by reason of the fact that they would be needed for reservoir purposes and were likely to be overflowed in consequence of the construction of such reservoirs. A copy of said order is hereto attached and made a part of this report.

The reservoirs in contemplation of construction at the time said order was issued have long since been completed, and it is now found that, with the exception of two tracts of land, none of the rest have been used or will be needed for the reservoirs, or are likely to be overflowed by the reservoirs. There is, therefore, no good ground for further withholding these lands from sale and entry under our public-land laws.

The object of the bill under consideration is to restore these lands to the public domain for sale and entry under the homestead law.

The War Department, under whose jurisdiction these lands have remained since their withdrawal, has prepared and approved of the bill, as appears from the following indorsements by the Chief of Engineers and the Secretary of War upon a letter in respect to this matter to the Secretary of War from Senator NELSON:

OFFICE CHIEF OF ENGINEERS, UNITED STATES ARMY,
February 23, 1897.

Respectfully returned to the Secretary of War.

Hon. KNUTE NELSON, United States Senate, desires to know if there is any objection to the restoration to the public domain of certain land reserved by the Government for use in connection with the construction of a reservoir and dam on Leech Lake, headwaters of the Mississippi River; also, in what way said land can be restored. The land in question was withdrawn from sale or disposal by Executive proclamation No. 872, dated November 28, 1881 (copy herewith), for the work above mentioned, and there appears to be no objection to the restoration of the land to the public domain, with the exception of lot 7 of section 33, and lot 5 of section 34, township 144, range 28, upon which the south end of the Leech Lake reservoir dam rests, provided such restrictions are imposed as will reserve to the Government the right to overflow the land and protect it from any claims to compensation for such overflowing. An act of Congress approved June 20, 1890, authorized the restoration of certain other reservoir lands in this locality, and contains the provisions and restrictions deemed essential in this case. A draft of a bill, drawn on the lines of this act, is submitted herewith, and it is believed that it will accomplish the purpose desired by Senator NELSON and protect the Government's interest in the reservoir and dam.

JOHN M. WILSON,
Brig. Gen., Chief of Engineers, United States Army.

WAR DEPARTMENT, *February 24, 1897.*

Respectfully returned to the Hon. KNUTE NELSON, United States Senate, inviting attention to the preceding indorsements hereon and to the inclosed papers therein referred to.

DANIEL S. LAMONT, *Secretary of War.*

Your committee accordingly recommend the passage of the bill with the following amendments:

(1) Strike out all of section 2 after the word "it," line 8, and insert the following in the place thereof: "And in all cases where first or preliminary homestead entries have been made of the lands hereby restored, and the entrymen have attempted to make final proof and final entry, such entrymen shall have a preferred and prior right to enter such lands under the homestead law on showing a compliance with the requirements of said law as to settlement, cultivation, proof, and payment."

(2) After the word "kind," in line 1 of section 3, insert the following: "Except as specified in the foregoing section."

The object of these amendments is to protect the rights of inchoate homestead settlers who have been permitted to make preliminary entries, but have not been allowed to perfect the same.

(No. 872.)

PROCLAMATION

By the President of the United States in withdrawing from sale or disposal certain lands in the State of Minnesota.

Whereas, by the provisions of the second section of an act of Congress entitled "An act making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," approved June 18, 1878, the Secretary of War was directed to cause "an examination" to be made "of the sources of the Mississippi River and of the St. Croix River in Wisconsin and Minnesota, and of the Chippewa and Wisconsin rivers in the State of Wisconsin, to determine the practicability and cost of creating and maintaining reservoirs upon the headwaters of said rivers and their tributaries for the purpose of regulating the volume of water and improving the navigation of said rivers and that of the Mississippi River, and an estimate of the damage to result therefrom to property of any kind," and by the provisions of the acts of March 3, 1879, June 14, 1880, and March 3, 1881, appropriation was made for the completion of the survey above referred to and the construction of said reservoirs; and

Whereas it appears by the report of the United States engineer having in charge the survey provided for by said act, which report was made to the Secretary of War, and dated St. Paul, Minn., November 4, 1881, that certain vacant public lands of the United States in the State

of Minnesota will be affected in the event of affirmative Congressional action upon said matter, and which action by the appropriations aforesaid has now been taken: Therefore,

I, Chester A. Arthur, President of the United States, do hereby direct that the following-described public lands in the State of Minnesota, being lands referred to in said report, be withheld from sale or disposal under the various acts for the sale and disposal of the public lands:

St. Cloud, Minn., land district.

Parts of section.	S.	T.	R.[a]
SE. ¼ NW. ¼	11	144	32
W. ½ NE. ¼	11	144	32
W. ½ SE. ¼	11	144	32
Lots 3 and 4	11	144	32
NE. ¼ SW. ¼	11	144	32
Lots 2, 3, and 4	14	144	32
W. ½ NE. ¼ and SE. ¼ SE. ¼	14	144	32
SW ¼ NW. ¼	21	144	32
Lot 3	25	144	32
Lot 11 and NW. ¼ SW. ¼	26	144	32
W. ½ SW. ¼ and SE. ¼ SE. ¼	27	144	32
Lots 3, 8, and 9, and NW. ¼ NE ¼, and SE. ¼ SE. ¼	28	144	32
Lot 2, NE. ¼ NW. ¼, S. ½ NE. ¼, and W. ½ SE. ¼	29	144	32
Lots 2, 3, 4, 8, and N. ½ SE. ¼	33	144	32
Lots 5, 8, N. ½ SE. ¼, and N. ½ SW. ¼	34	144	32
S. ½ NW. ¼ and N. ½ NE. ¼	35	144	32
Lot 9	1	143	32
Lot 2	12	143	32
SE. ¼ NE. ¼, NW. ¼ SE. ¼, and SE. ¼ SW. ¼	34	143	32
E. ½ NW. ¼, NE. ¼ SW. ¼, SW. ¼ SW. ¼, SW. ¼ NW. ¼, and NW. ¼ SE. ¼	35	143	32
Lots 5, 6, 7, 8, 9, and SE. ¼ NW. ¼	1	142	32
Lots 1, 2, 3, 4, 6, 7, 8, and 9	2	142	32
Lots 2, 3, SW. ¼ NE. ¼, and SE. ¼ NW. ¼	3	142	32
NE. ¼ SE. ¼ and lots 1, 2, and 3	11	142	32
Lots 1, 2, and SE. ¼ NW. ¼	12	142	32
Lots 1, 2, and 3	7	142	31
Lots 2, 3, 4, and 5	8	142	31
Lots 2, 3, and 4	9	142	31
All of	15	142	31
Lot 6	2	141	31
Lot 11	11	141	31
Lot 8	13	141	31
Lot 2	14	141	31
Lots 4, 5, 6, and 7	29	144	28
All of	31	144	28
All of	32	144	28
Lot 7	33	144	28
Lots 4, 5, 6, 8, S. ½ SE. ¼, and SW. ¼	33	144	28
Lot 5	34	144	28
Lot 5	39	144	28
W. ½ NE. ¼, W. ½ SE. ¼, and W. ½	4	143	28
All of	5	143	28
All of	6	143	28
All of	7	143	28
All of[a]	8	143	28
W. ½ SE. ¼ and E. ½ NE. ¼	9	143	28
SW. ¼ SW. ¼	10	143	28
W. ½ SW. ¼ and SE. ¼ SW. ¼	13	143	28
S. ½ SE. ¼ and S. ½ SW. ¼	14	143	28
W. ½ SE. ¼	15	143	28
N. ½ NW. ¼, SW. ¼, and E. ½	17	143	28
NE. ¼ NE. ¼, E. ½ SE. ¼, and SW. ¼ SE. ¼	18	143	28
Lots 3, 4, 5, 6, 7, NW. ¼ SE. ¼, NE. ¼ SW. ¼, and NE. ¼	19	143	28
All of	20	143	28
All of	21	143	28
All of	22	143	28
W. ½ NE. ¼, W. ½ SE. ¼, and W. ½	23	143	28
NW. ¼ NW. ¼	24	143	28
NE. ¼ NE. ¼, S. ½ SE. ¼, and S. ½ SW. ¼	25	143	28
Lots 1, 2, 3, 4, W. ½ NE. ¼, and NW. ¼	26	143	28
Lots 1, 2, 3, and N. ½ NE. ¼	27	143	28
All of	30	143	28
Lot 1	35	143	28
SE. ¼ SW. ¼	19	143	27
NE. ¼ SW. ¼ and SE. ¼ SE. ¼	29	143	27
SW. ¼ NW. ¼, NE. ¼ NW. ¼, and NW. ¼ NE. ¼	30	143	27
SE. ¼ NW. ¼, SW. ¼ SW. ¼, and NW. ¼ NE. ¼	33	143	27
Lots 6 and 9	5	143	27
NE. ¼ SE. ¼, SW. ¼ NE. ¼, and E. ½ NE. ¼	9	142	27
SW. ¼ NE. ¼, NW. ¼ SE. ¼, N. ½ SW. ¼, and S. ½ NW. ¼	10	142	27
SW. ¼ NW. ¼, W. ½, SE. ¼, and SW. ¼	14	142	27
S. ½ NE. ¼, SE. ¼ NW. ¼, lot 1, and N. ½ SE. ¼	15	142	27
Lots 3, 4, 7, SE. ¼ NE. ¼, and N. ½ SE. ¼	21	142	27
Lots 1, 2, 5, 6, and SW. ¼ SW. ¼	22	142	27
NW. ¼ NE. ¼	23	142	27
Lots 1, 4, and 6	27	142	27
Lot 2	28	142	27
NW. ¼ NE. ¼	35	142	27

[a] West of fifth principal meridian.

Given under my hand, at the city of Washington, this 28th day of November, A. D. 1881.

CHESTER A. ARTHUR.

By the President:
N. C. MCFARLAND,
Commissioner General Land Office.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

The PRESIDENT pro tempore. The hour of 1 o'clock, to which the Senate sitting as a court in the impeachment of Judge Charles Swayne adjourned, has arrived. Will the Senator from Connecticut [Mr. PLATT] please take the chair?

Mr. PLATT of Connecticut thereupon took the chair as Presiding Officer.

The PRESIDING OFFICER. The Sergeant-at-Arms will make the opening proclamation.

The SERGEANT-AT-ARMS. Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence on pain of imprisonment while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against Charles Swayne, judge of the district court of the United States in and for the northern district of Florida.

The PRESIDING OFFICER. The Secretary will now call the names of those Senators who have not been sworn, and such of those Senators as are present in the Chamber will, as their names are called, advance to the desk and take the oath.

The Secretary called the names of the Senators who had not been heretofore sworn, whereupon Senators BLACKBURN, DEPEW, DRYDEN, KNOX, and MCLAURIN advanced to the area in front of the Secretary's desk, and the oath was administered to them by the Presiding Officer.

Mr. FAIRBANKS. I offer the resolution which I send to the desk, for which I ask present consideration.

The resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary inform the House of Representatives that the Senate is sitting in its Chamber and ready to proceed with the trial of the impeachment of Charles Swayne.

At 1 o'clock and 7 minutes p. m. the Assistant Sergeant-at-Arms announced the managers on the part of the House of Representatives.

The PRESIDING OFFICER. The managers will be admitted and conducted to the seats provided for them within the bar of the Senate.

The managers were conducted to seats provided in the space in front of the Secretary's desk on the left of the Chair, namely: Hon. HENRY W. PALMER, of Pennsylvania; Hon. MARLIN E. OLMSTED, of Pennsylvania; Hon. JAMES B. PERKINS, of New York; Hon. HENRY D. CLAYTON, of Alabama; Hon. DAVID A. DE ARMOND, of Missouri; and Hon. DAVID H. SMITH, of Kentucky.

At 1 o'clock and 14 minutes p. m. Hon. Anthony Higgins and Hon. John M. Thurston, counsel for the respondent, Charles Swayne, entered the Senate Chamber and were conducted to the seats assigned them in the space in front of the Secretary's desk, on the right of the Chair.

The PRESIDING OFFICER. The Secretary will read the minutes of the proceedings of the last session of the Senate while sitting in the trial of the impeachment of Charles Swayne.

The Secretary read the Journal of proceedings of the Senate, sitting for the trial of the impeachment, of Tuesday, January 24, 1905.

The PRESIDING OFFICER. The Secretary will now read the return of the Sergeant-at-Arms to the summons directed to be served.

The Secretary read the following return appended to the writ of summons:

The foregoing writ of summons, addressed to Charles Swayne, and the foregoing precept, addressed to me, were duly served upon the said Charles Swayne by delivery to and leaving with him true and attested copies of the same at 1215 Tatnall street, Wilmington, Del., the residence of Henry G. Swayne, on Tuesday, the 24th day of January, 1905, at 7 o'clock and 45 minutes in the afternoon of that day.

DANIEL M. RANSDELL,
Sergeant-at-Arms United States Senate.

The PRESIDING OFFICER. The Secretary will now administer to the Sergeant-at-Arms an oath in support of the truth of his return.

The Secretary (Mr. CHARLES G. BENNETT) administered the following oath to the Sergeant-at-Arms:

You, Daniel M. Ransdell, Sergeant-at-Arms of the Senate of the United States, do solemnly swear that the return made by you upon the process issued on the 24th day of January, 1905, by the Senate of the United States against Charles Swayne, is truly made, and that you have performed such service as therein described. So help you God.

The SERGEANT-AT-ARMS. I do so swear.

The PRESIDING OFFICER. The Sergeant-at-Arms will make proclamation.

The SERGEANT-AT-ARMS. Charles Swayne, Charles Swayne, Charles Swayne, judge of the district court of the United States for the northern district of Florida: Appear and answer to the articles of impeachment exhibited by the House of Representatives against you.

Mr. HIGGINS. Mr. President, on behalf of the respondent, Charles Swayne, I beg to enter the following appearance:

To the Honorable the Senate of the United States,
Sitting as a Court of Impeachment:

I, Charles Swayne, judge of the district court of the United States in and for the northern district of Florida, now present in the city of Washington, having been served with a summons to be in the city of Washington on the 27th day of January,

1905, at 1 o'clock afternoon, to answer certain articles of impeachment presented against me by the honorable the House of Representatives of the United States, do hereby enter my appearance by my counsel, Anthony Higgins and John M. Thurston, who have my warrant and authority therefor, and who are instructed by me to ask this court for a reasonable time for the preparation of my answer to said articles.

CHARLES SWAYNE.

Dated at Washington, D. C., this 27th day of January, A. D. 1905.

I ask that this be filed, and I submit a copy for the managers.

The PRESIDING OFFICER. It will be placed on file.

Mr. THURSTON. On behalf of the respondent we make the following motion:

In the Senate of the United States, sitting as a court of impeachment. The United States of America *v.* Charles Swayne. Upon articles of impeachment presented by the House of Representatives of the United States of America.

The respondent, by his counsel, now comes and moves the court to grant him the period of seven days in which to prepare and present his answer to the articles of impeachment presented against him herein.

ANTHONY HIGGINS.
JOHN M. THURSTON.

Mr. FAIRBANKS. Mr. President, I move the adoption of the order which I send to the desk.

The PRESIDING OFFICER. The Senator from Indiana moves the adoption of an order, which will be read.

The order was read, and agreed to, as follows:

Ordered, That the respondent present his answer to the articles of impeachment at 12 o'clock and 30 minutes postmeridian on the 3d day of February next.

Mr. Manager PALMER. I move the adoption of the order which I send to the Secretary's desk to be read.

The PRESIDING OFFICER. The proposed order will be read.

The Secretary read as follows:

Ordered, That lists of witnesses be furnished the Sergeant-at-Arms by the managers and the respondent, who shall be subpœnaed by him to appear on the 10th day of February, at 1 o'clock post meridian.

Ordered, That the cause shall be opened and the trial proceed on the 13th day of February, at 1 o'clock postmeridian, unless otherwise ordered.

The PRESIDING OFFICER. Senators, are you ready for the question on the adoption of the order presented by the managers on the part of the House?

Mr. THURSTON. Mr. President——

Mr. Manager PALMER. I move the adoption of the order.

Mr. FAIRBANKS. The reading of the order was not distinctly heard, and I ask that it may be again read for the information of the Senate.

The PRESIDING OFFICER. The proposed order will again be read.

The Secretary again read the order.

Mr. THURSTON. Mr. President, on behalf of the respondent, we desire to say that we have had in mind the important public business that must necessarily be transacted by the Senate between now and the expiration of the session on the 4th of March, and we are disposed in every way consistent with the interests of our client to assist the Senate in expediting this trial. And for our part, while we are not here in the attitude of objecting to any order that the Senate may seek to make, we see no reason why the trial might not proceed just as well on the 10th day of February as on the 13th.

Mr. FAIRBANKS. Mr. President, I ask for a division. Two orders are proposed. I ask that the first may be first considered.

The PRESIDING OFFICER. The request of the Senator from Indiana is entirely within the rules of the Senate. The Secretary will read the first division of the proposed order.

The Secretary read as follows:

Ordered, That lists of witnesses be furnished the Sergeant-at-Arms by the managers and the respondent, who shall be subpœnaed by him to appear on the 10th day of February, at 1 o'clock postmeridian.

Mr. BACON. Mr. President, in order that Senators may vote intelligently upon the order, I suggest that it might be profitable for the managers to state to us the reason why it is not practicable to proceed on the 10th, if such reason there be.

The PRESIDING OFFICER. The first division of the order is now under consideration, providing that the witnesses be directed to appear on the 10th.

Mr. BACON. I did not catch the reading. I withdraw the suggestion until after the pending question is disposed of.

The PRESIDING OFFICER. The question is on agreeing to the first part of the order, which has been read.

Mr. BAILEY. Mr. President, it does not seem to me that there can be any good reason why the managers on the part of the House can not be ready to proceed with this trial on the 3d day of February instead of the 13th. Without intending the slightest criticism of the managers or the House itself, I beg to remind this court that for several months the House has pursued, through its committees, this investigation, and I am perfectly sure that the managers on the part of the House know at this moment all of the important facts involved in this controversy.

This investigation was proposed and directed by the House quite a year ago, or almost. The accused has been through all the allegations and all the testimony against him, and within one week from to-day, it seems to me, the Senate, sitting as a court, could reasonably expect both sides to be ready to proceed.

If this trial is delayed until the 13th of February we will witness the spectacle, to say the least not gratifying, of the Senate being forced either to hurry with this solemn and important duty or neglect some of its legislative functions. Unless the managers on the part of the House are willing to say that they could not prepare to proceed with the trial of this case upon the day when Judge Swayne makes his answer, I should prefer—I should almost insist—that we enter upon the trial then instead of on the 10th, as suggested by some, or on the 13th, as proposed by the managers on the part of the House.

I sincerely hope that the managers on the part of the House will feel warranted in saying that they will be ready to proceed upon the very day when Judge Swayne shall make his answer.

Mr. SPOONER. Mr. President, if the answer of the respondent is to be exhibited to the Senate on the 3d day of February, it would be undue haste and perhaps injustice to the managers to require them to proceed to trial on that day. The practice is, and in this case it may very easily be a necessity, that the managers of the House will desire to file a replication to the answer. They will not have had opportunity to peruse it until the 3d. They should have opportunity to consider it and to prepare such pleadings in reply to it as they may be advised. So I think they ought not to be required to proceed to trial on the same day that the answer of the respondent is presented to the Senate.

Mr. BAILEY. I suggest to the Senator from Wisconsin that we would proceed with the trial within the meaning of that term, and if the managers on the part of the House desire to have one day or two days to make such reply as they might deem necessary, the court could then allow it. I object merely to the delay of ten days or the delay of one week after the answer is made being ordered now. Undoubtedly if the court entered upon the trial on the 3d day of February and the managers on the part of the House should ask for time to reply to the answer of Judge Swayne, no Senator would doubt the propriety and justice of allowing it. But they might only want one day, or they might only want two days; and it seems to me that we would save time by ordering the trial to begin then, because by such order it does not necessarily mean that the testimony shall be taken either that or the following day.

Mr. Manager PALMER. Mr. President, on behalf of the managers, I wish to state that under the order which has already been made the respondent has until the 3d of February to answer. The managers will be obliged to submit any replication or exception or demurrer that they may see fit to prepare to the House for its adoption. We shall ask at least two days or perhaps three days for that purpose. That will run the time over until the 6th of February. Then probably an argument will occur on the replication or on the exceptions or on the demurrer or on whatever pleading the managers may see fit to file.

Of course it is not supposed that the proceedings in this case will be suspended until the 13th. It is supposed that between the 3d and the 13th the issues will be framed and the pleadings settled. No lawyer can undertake to prepare a case until the pleadings are settled, until he knows what issues he has to meet. We are not aware and we can not foretell what answer the respondent will make in this case. If the pleadings are settled by the 6th of February and the witnesses are subpœnaed to appear on the 10th and it is ordered that the case shall be opened and the witnesses examined on the 13th, that will give the managers from the 10th to the 13th to examine their witnesses and to arrange in an orderly way so that the case may be adequately and properly presented to the Senate.

That is the thought which the managers had in presenting this order. I wish to state that the time is as short as it possibly can be. The managers can not get ready any sooner than that, and there will be nothing gained by forcing a trial before that date.

Mr. BLACKBURN. Mr. President, in order that the Senate may be informed just here on what seems to me to be an essen-

tial matter, I want to know whether we are to understand from the managers of the House that every pleading that the managers are to prepare, whether in the nature of a reply to an answer or a demurrer or exception—all of these preliminary pleadings—must, in the judgment of the managers, be by them submitted to the House and approved before they have authority to file, and proceed here?

Mr. Manager PALMER. Mr. President——

Mr. BLACKBURN. Will the manager allow me for just a moment? I will complete the question, because I rise simply to get the information that seems to me necessary.

My understanding of it is that the Members of the House who constitute the committee of managers are assumed to be lawyers. Else, I take it, they would not have been selected by the House. I may be entirely in error, but my understanding is that when the House selected them and clothed them with the duty of representing the House in the prosecution of these charges they, and not the House, were charged with the preparation of the pleadings and the bringing of this case to trial, and that they have already the authority of the House. I do not understand—though, as I have said, I may be entirely in error—that they must go back and get additional authority in the nature of approval of every step that they take in the discharge of the duty which the House has put upon them as its managers and representatives in the prosecution of this impeachment.

Mr. Manager PALMER. In answer to the Senator from Kentucky, I will say that we are proceeding in strict accordance with all the precedents, from the first impeachment trial ever had in the Senate down to the last trial that was had, namely, that of William W. Belknap, Secretary of War. The managers have always consulted the House as to the form of pleadings, especially the replication. The House prepares the articles, the House votes on the articles, and necessarily there must be submitted to the House any replication or exceptions or demurrer that the managers may prepare. We only follow the precedents; and while it may be a very violent presumption that the managers are lawyers, we at least are lawyers enough to follow precedent.

The PRESIDING OFFICER. The Chair wishes to observe at this point that he doubts the propriety of debate between Senators and the managers of the impeachment on the part of the House. He does not speak positively upon that question, not having had an opportunity to examine the precedents.

Mr. FAIRBANKS. We understand that the order which the managers of the House have asked for can not properly be put by them, and I suppose it is the proper practice to regard the order offered as a request. I offer, upon the request of the managers of the House, for present consideration the order which I send to the desk.

The PRESIDING OFFICER. The order will be read.

The Secretary read as follows:

Ordered, That lists of witnesses be furnished the Sergeant-at-Arms by the managers and the respondent, who shall be subpœnaed by him to appear on the 10th day of February, at 1 o'clock postmeridian.

The PRESIDING OFFICER. Senators, are you ready for the question?

Mr. TELLER. Let the order be read again.

The PRESIDING OFFICER. The Senator from Colorado calls for the further reading of the proposed order.

The Secretary again read the order.

Mr. BAILEY. Mr. President, I move to strike out the word "tenth" and to insert "third." I may be permitted to say in support of the motion that the very practice suggested by the managers of the House, of reporting back to the House such replication, answer, or demurrer as they may see fit to recommend, emphasizes the necessity of the Senate proceeding with this trial at the earliest possible day.

The PRESIDING OFFICER. The Senator from Texas moves to amend the proposed order as will be stated.

The SECRETARY. In the last line it is proposed to strike out the word "tenth" and insert "third;" so as to read "the 3d day of February."

Mr. BACON. I should like to inquire of the managers, through the Chair, whether there is any difficulty in the witnesses being summoned to appear and their obeying the summons by the 3d?

The PRESIDING OFFICER. The managers will respond.

Mr. Manager PALMER. Mr. President, I should say it would be practically a physical impossibility to get the witnesses here by the 3d. They are in Florida and in Texas and in Louisiana, and by the ordinary courses of travel at this season it would be practically impossible for the Sergeant-at-Arms to go there, ascertain where the witnesses are, summon them, and bring them here by the 3d.

Secondly, it would be of no use at all to get them here on the 3d; we could not do anything with them, because the pleadings will not have been settled on the 3d. The 3d of February is the day when the respondent is to put in his answer.

The House will ask, and I suppose under the practice will receive, some time to file a replication. There is no use to have the witnesses here until after the pleadings are settled, certainly, and it seems to me to be a reasonable request that the managers should have a few minutes after the witnesses get here to prepare for the trial.

Mr. BAILEY. Mr. President, in view of the statement by the managers of the House that it would be a physical impossibility to summon these witnesses and have them here by the 3d, I withdraw the amendment which I proposed.

The PRESIDING OFFICER. The amendment is withdrawn. The question is on agreeing to the order.

The order was agreed to.

Mr. FAIRBANKS. I move, Mr. President, that the Senate sitting for the trial of the impeachment adjourn until Friday, the 3d day of February next, at half past 12 o'clock postmeridian.

The motion was agreed to; and (at 1 o'clock and 40 minutes p. m.) the Senate, sitting for the trial of the impeachment, adjourned until Friday, February 3, 1905, at 12.30 o'clock p. m.

The managers on the part of the House and the counsel for the respondent withdrew from the Chamber.

The PRESIDENT pro tempore resumed the chair.

Mr. BAILEY. Mr. President, a moment ago, when the Senate was sitting as a court, it was doubted if the managers on the part of the House are permitted under the rules to make a motion. My own opinion is that nobody but a Senator can make a motion to be voted on by the Senate, but it would be a most anomalous situation if an attorney in any kind of a court could not make motions before that court to be acted on by that court. And for my own guidance—I am sure that other Senators are in much the same frame of mind—I should like to have that question settled. If it would be proper, I should like to have the Judiciary Committee report, or if the Senate prefers, a special committee, what have been the practice and the precedents in that respect.

It would be awkward, to say the least of it, if the managers on the part of the House in a trial of this kind should have to solicit some Senator to make a motion which they thought necessary to the presentation of their case.

Mr. BACON. I will state that which will recall to the recollection of the Senator from Texas a fact possibly he has forgotten. The Senate already has a special committee appointed for the purpose of considering all questions of that kind.

Mr. BAILEY. That had escaped my mind; and as there is a special committee of that kind of course that special committee will be prepared to report on it. I should dislike to see the Senate again meet as a court without some understanding as to the power of the managers on the part of the House or counsel on the part of Judge Swayne. Without having looked at the precedents at all, my impression would be that they would be entitled to make the same motions to this court that any attorney would be in any other court.

The PRESIDENT pro tempore. There is a select committee, of which the Senator from Connecticut [Mr. PLATT] is chairman, and undoubtedly, the attention of that committee having been called to this question, the Senate will be advised by it.

RESTORATION TO PUBLIC DOMAIN OF RESERVOIR LANDS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6644) to authorize the President of the United States to cause certain lands heretofore withdrawn from market for reservoir purposes to be restored to the public domain, subject to entry under the homestead law, with certain restrictions.

The PRESIDENT pro tempore. The bill was read and a request was made, the Chair thinks by the Senator from Massachusetts, that the report be read. The reading of the report was interrupted by the court.

Mr. NELSON. I ask unanimous consent that the further reading of the report be dispensed with. The bill relates wholly to lands in Minnesota.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAND IN WASHINGTON CITY.

Mr. GORMAN. I ask unanimous consent to call up the bill (S. 6371) to confirm title to lot 5, in square south of square No. 990, in Washington, D. C.

The Secretary read the bill; and by unanimous consent the

Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KEAN. I ask that the report be printed in the RECORD. I do not ask that it be read.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from New Jersey, and the report will be printed in the RECORD.

The report submitted by Mr. MARTIN, January 14, 1905, is as follows:

The Committee on the District of Columbia, to whom was referred the bill (S. 6371) to confirm title to lot 5, in square south of square No. 990, in Washington, D. C., having considered the same, report thereon with a recommendation that it pass.

By resolution of the Senate of January 27, 1898, the Chief of Engineers of the War Department forwarded to the Senate a list of lots in the District of Columbia title to which appeared on the records of the War Department as being in the name of the United States. (Senate Doc. No. 277, 2d. sess. 55th Cong.)

By act of March 3, 1899, Congress confirmed title to all of the lots enumerated in said War Department list "upon the filing by the actual occupant of the lots mentioned in said document (Senate Doc. No. 277) sufficient proof that the said occupant or the party under whom he claims has been in actual possession of said lot or lots for an uninterrupted period of twenty years, so that the records shall show the title to said lot or lots to be in the said occupant."

Further complying with said Senate resolution of January 27, 1898, the Chief of Engineers of the War Department, subsequent to the passage of said act of March 3, 1899, forwarded to the Senate, under date of December 6, 1900, a list of lots, the title to which the records of the War Department showed to be in the United States, and suggested that this list of lots (Senate Doc. No. 31, 2d sess. 56th Cong.) supersede the list set out in said Senate Document No. 277, second session Fifty-fifth Congress.

As indicated above, the list of lots recited in said Senate Document No. 31 reached the Senate subsequent to the passage of the act confirming title to the lots mentioned in said Senate Document No. 277, and no action has been had thereon by Congress.

A number of lots mentioned in said Senate Document No. 31 are mentioned in said Senate Document No. 277.

Lot 5, in square south of square No. 990, was not contained in the first list forwarded to the Senate by the Chief of Engineers under said Senate resolution, but is contained within the second report so forwarded to the Senate, and is recited in said Senate Document No. 31, second session Fifty-sixth Congress, and no action has been taken upon this said lot by Congress.

The bill in question is drawn exactly along the lines of the act confirming title to the list of lots mentioned in said Senate Document No. 277.

The bill has the approval of the War Department, as will appear by the following communications from the Assistant Secretary of War and the Chief of Engineers, United States Army:

[First indorsement.]

WAR DEPARTMENT, *January 11, 1905.*

Respectfully returned to the chairman Committee on the District of Columbia, United States Senate, inviting attention to the accompanying report of the Chief of Engineers, United States Army, of yesterday's date.

ROBERT SHAW OLIVER,
Assistant Secretary of War.

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, January 10, 1905.

SIR: I have the honor to return herewith a letter, dated the 7th instant, from the Senate Committee on the District of Columbia, inclosing for the views of the War Department thereon S. 6371, Fifty-eighth Congress, third session, "A bill to confirm title to lot 5, in square south of square No. 990, in Washington, D. C."

Lot 5, square south of square No. 990, is one of the lots mentioned in the list printed in Senate Document No. 31, Fifty-sixth Congress, second session, the title to which lots the records show to be in the United States. As Congress has enacted similar legislation respecting other lots in this category, I see no objection to the favorable consideration of this bill by Congress.

Very respectfully,
A. MACKENZIE,
Brig. Gen., Chief of Engineers, U. S. Army.

Hon. WM. H. TAFT, *Secretary of War.*

WILLIAM J. BARCROFT.

Mr. MARTIN. I ask unanimous consent for the present consideration of the bill (H. R. 12346) to correct the military record of William J. Barcroft.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill, which had been reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and insert:

That William J. Barcroft, late of Company H, Eighty-sixth Regiment United States Colored Troops, shall be held and considered to have been honorably discharge from the service as of date June 9, 1866, and the Secretary of War is authorized to issue to said Barcroft a certificate of such discharge: *Provided*, That no pay, bounty, or allowance shall accrue or be paid to said Barcroft by reason of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MISSOURI RIVER BRIDGE IN SOUTH DAKOTA.

Mr. BERRY. I report back favorably from the Committee on Commerce without amendment the bill (S. 6834) to authorize the construction of a bridge across the Missouri River, between Lyman County and Brule County, in the State of South Dakota, and I submit a report thereon.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill just reported. It is a local bridge bill.

The Secretary read the bill, and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REGISTRATION OF TRADE-MARKS.

Mr. KITTREDGE. I ask unanimous consent for the present consideration of the bill (H. R. 16560) to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same. The bill was read last evening and the amendments reported from the Committee on Patents were adopted; and then the bill went over on my request.

The PRESIDENT pro tempore. The bill was before the Senate yesterday in Committee of the Whole and all the amendments were agreed to. It then went over at the request of the Senator from South Dakota, who now asks that the consideration of it may continue. Is there objection to its consideration?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT pro tempore. If there be no further amendment, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

REGULATION OF IMMIGRATION.

Mr. PLATT of Connecticut. I ask that the Calendar may be proceeded with.

The PRESIDENT pro tempore. The Secretary will announce the first bill on the Calendar.

The bill (S. 5317) to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903, was announced as first in order.

Mr. KEAN. I do not see the Senator present who reported the bill. I think it had better go over.

The PRESIDENT pro tempore. Objection being made, the bill goes over.

NATIONAL WHITE MOUNTAIN FOREST RESERVE.

The bill (S. 2327) for the purchase of a national forest reserve in the White Mountains, to be known as the National White Mountain Forest Reserve, was next in order on the Calendar.

Mr. PLATT of Connecticut. Let that bill go over also.

The PRESIDENT pro tempore. Objection is made, and the bill goes over without prejudice.

ESTATE OF GEORGE T. HOWARD.

The bill (S. 5304) for the relief of the heirs of George T. Howard was announced as next in order.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, instructed and directed to pay to the heirs or assigns of George T. Howard, esq., late of San Antonio, Tex., the sum of $2,077.80, out of any money not otherwise appropriated, in full settlement of the amount found to be due the said George T. Howard by a board of survey appointed for the purpose of assessing damages done to his property by troops of the United States.

Mr. KEAN. Let the report be read.

The PRESIDENT pro tempore. The report will be read.

The Secretary proceeded to read the report submitted by Mr. OVERMAN April 13, 1904, which is as follows:

The Committee on Claims, to whom was referred the bill (S. 5304) for the relief of the heirs of George T. Howard, have had the same under consideration and now beg to report it back to the Senate favorably and without amendment, and to recommend that the bill do pass.

A bill similar as to title and amount was reported to the House of Representatives by the Committee on War Claims of that body in the Fifty-seventh and Fifty-eighth Congresses. The report of that committee (H. Rept. No. 2456) in the Fifty-seventh Congress reads as follows:

"The Committee on War Claims, to whom was referred the bill (H. R. 1750) for the relief of the heirs of George T. Howard, deceased, submit the following report:

"It appears from the proof submitted in support of the bill that in the year 1866 United States troops took possession of the property of the claimant situated in San Antonio, Tex., and injured it to the extent of $2,077.80.

"On April 4, 1866, by Special Orders, No. 82, Headquarters Central District of Texas, a board of survey was appointed for the purpose of assessing damage alleged to have been done to property of George T. Howard by the United States forces and fix responsibility for the same. The board of survey under this order met, and in their report recommended that the claimant be paid the sum of $2,077.80 for damages and injury to his property.

"Your committee recommended the passage of the bill."

Special Orders, No. 82, referred to and the proceedings of the board of survey appointed under that order are included in your committee's report as matters of interest and information:

Proceedings of a board of survey called by the following order:

[Special Orders, No. 82.]

HEADQUARTERS SEPARATE BRIGADE,
CENTRAL DISTRICT OF TEXAS,
San Antonio, Tex., April 4, 1866.

A board of survey is hereby appointed to convene at Vance Building, San Antonio, April 6, at 10 o'clock a. m., for the purpose of assessing damage alleged to have been done to property of George T. Howard, esq., by United States forces and fix responsibility for the same.

* * * * * * *

Capt. Charles J. Fox, Fourth Michigan Volunteer Infantry.
First Lieut. R. A. Sprague, Third Michigan Volunteer Infantry.
Second Lieut. Homar Karber, Eighteenth New York Cavalry Volunteers.

By command of Bvt. Brig. Gen. James Shaw, jr.

GEO. K. SHERMAN,
Captain Seventh United States Colored Troops,
Acting Assistant Adjutant-General.

SAN ANTONIO, TEX., *April 6, 1866.*

At 10 o'clock a. m. the board met pursuant to the foregoing order.

Present: Capt. Charles J. Fox, Fourth Michigan Volunteer Infantry; First Lieut. R. A. Sprague, Third Michigan Volunteer Infantry; Second Lieut. Homar Karber, Eighteenth New York Volunteer Cavalry.

The board then proceeded to investigate the question as to the damages claimed to be done by the United States forces to the property of George T. Howard, esq., at San Antonio, Tex.

J. H. Kampmann, esq., citizen of San Antonio, Tex., a duly authorized agent for George T. Howard, esq., being duly sworn, represents the damages done to said premises as follows:

On the 1st day of November, 1865, when Brevet Brigadier-General Post established his headquarters in the building of George T. Howard, esq., at San Antonio, Tex., the whole property was in very good condition, the house, fences, etc., having been newly repaired.

The general moved his headquarters train, ambulance, and a company of mounted men in the yard in rear of the building. The yard was fenced in on two sides with a board fence and the rear of the lot with cedar poles.

The yard contained a barn, a grapevine arbor 243 feet long, thirty-two bearing grapevines between 5 and 7 years growth, imported from Germany, and eighty-eight bearing peach trees between 5 and 7 years growth. I soon learned that the wagons, mules, and horses caused the destruction of the property and begged General Post to remove his train out of the yard, which was not complied with. When he was relieved from command, I found the upper floor in the barn, the stalls, etc., destroyed, the fences entirely broken down, the poles and boards missing, the grapevine arbor partly destroyed, the most of the grapevines torn out, the peach trees broken down, and the walls, windows of the house, and the stone fence in front of the building partially injured.

After the premises were vacated by the United States forces, I commenced repairing the damages done, and made the following expenditures:

For the fences, gates, barn, etc., 3,254 feet of lumber, per foot, 30 cents, including work, amounts to	$976.20
For the fence in rear of the lot, 100 cedar posts, amounting to	30.00
For repairs of the house, doors, and windows, gates, and the stone fence in front of the house, including materials, as lime, sand, hinges, nails, etc., amounting to	152.00
I value 88 peach trees $20 each, which amounts to	1,760.00
32 grapevines, $20 each	640.00
The whole amount of damages done	3,558.20

GEORGE K. NAIRN, regimental quartermaster Third Michigan Volunteer Infantry, being duly sworn, makes the following statement:

I was appointed as acting quartermaster subdistrict of San Antonio, Tex., on the staff of Brevet Brigadier-General Post on the 15th day of December, 1865, and relieved Capt. J. W. Hall, Thirteenth Wisconsin Infantry, and found the property of George T. Howard, esq., in the following condition:

The fences, which included the back yard, were nearly all destroyed, the gates torn down, etc. A headquarters train of ten 6-mule teams, one 4-mule ambulance, and 18 private and public horses, which filled the yard nearly full, and the destruction of the property belonging to George T. Howard, esq., was in my opinion unavoidable.

I remained as assistant quartermaster of the subdistrict of San Antonio until the 23d day of January, when the premises were vacated. During the whole time that I was connected with the headquarters I took particular pains to see that no property was destroyed which could in any way be avoided.

Q. Were there any peach trees and grapevines standing in the yard when you were first appointed on the staff of Brevet Brigadier-General Post?—A. There were no peach trees in the yard, but a few grapevines.

Q. What time was General Post relieved from command of the district?—A. On or about the 25th day of December, 1865.

Sergt. WARREN T. SPINK, Company I, Third Michigan Volunteer Infantry, being duly sworn, deposes and says:

I was detailed on the 24th day of November, 1865, and placed in charge of the escort of Brevet Brigadier-General Post, commanding subdistrict of San Antonio, Tex. I found on the premises of George T. Howard, esq., then occupied as headquarters of the subdistrict of San Antonio, Tex., 18 horses, ten or twelve 6-mule wagons, one 4-mule ambulance, and about 75 mules, all of which were in the back yard. The grapevines and arbor were torn down by the mules breaking loose and getting entangled in the grapevines.

Q. Did you on the 24th day of November, 1865, find any peach trees in the said yard?—A. I only found a few stumps of peach trees.

Q. Was the fence in good condition when you reported for duty at subdistrict headquarters?—A. The most of it I found torn down.

Q. Did General Post give any particular instructions in regard to the preservation of the property?—A. The General gave me the order to keep everything in good order and not destroy any property belonging to the said Howard, but we had so much transportation, horses, etc., that filled the yard more than full; it was therefore impossible for me to prevent the destruction of said property.

Capt. HENRY CLUBB, assistant quartermaster U. S. Volunteers, being duly sworn, makes the following statement:

I was depot quartermaster in the post of San Antonio, Tex., when General Post assumed command of the subdistrict of San Antonio, and selected the building of George T. Howard, esq., for his headquarters; was cognizant of the condition of the premises aforesaid; went with the said Howard at his request and examined the back yard, found the fences, gates, barn, and buildings in good order.

Q. Did you find the back yard filled with peach trees and the arbor covered with grapevines?—A. I did.

Q. How many years' growth do you think these peach trees had?—A. I judge about five years.

Q. Were all the peach trees and grapevines in good condition when you saw them?—A. They were.

Q. How much do you value each tree?—A. About $25. If it was my own homestead I would not like to have one destroyed for $100.

Q. Were you acquainted with the price of lumber when those premises were repaired? If so, state what it was worth per thousand.—A. One hundred and fifty dollars per thousand.

The board then proceeded to the premises of said George T. Howard, esq., and after a careful investigation of damages done to said premises, we fixed said damages as follows:

3,252 feet of lumber, at $150 per 1,000, which amounts to	$487.80
100 fence poles, at 30 cents each, which amounts to	30.00
180 feet picket fence made of long cedar poles, at 50 cents per foot, which amounts to	90.00
Lime, sand, glass, door hinges, etc., amounts to	70.00
Labor repairing house and premises	400.00
Damage done to trees, grape vines, and other shrubbery	1,000.00
Which in all comprises the sum of	2,077.80

Being unable to obtain evidence in regard to the necessity of keeping this headquarter train and escort on these premises, we most respectfully submit the foregoing actions for approval.

C. J. FOX,
Captain, Fourth Michigan Infantry.
R. A. SPRAGUE,
First Lieutenant, Third Michigan Infantry.
H. KARBER,
Second Lieutenant, Eighteenth New York Cavalry.

H. Karber, late a second lieutenant in the Eighteenth Regiment of New York Cavalry Volunteers and a member of the board of survey in question, made the following affidavit on the 30th day of November, A. D. 1900:

STATE OF TEXAS, *County of Bexar:*

I hereby make oath that I was a second lieutenant in the Eighteenth New York Cavalry, United States Army, in 1866, and that I was a member of a board of survey appointed by Brig. Gen. James Shaw, jr., commanding department, District of Texas, for the purpose of appraising the amount of damage done to the premises of George T. Howard, San Antonio, Tex., by reason of occupying the same as headquarters for Brigadier-General Post, United States Army; that I, in company with Capt. Charles I. Fox and First Lieut. R. A. Sprague, my associates on the board, made the investigation and the appended reports of same, and that the facts are as true to-day as at that date, with the exception that the amount of damage we awarded was governed by the price of material and labor at that date.

H. KARBER.

STATE OF TEXAS, *County of Bexar:*

Before me, William H. Young, a notary public in and for Bexar County, Tex., personally appeared Homer Karber, who is known to me to be the person whose name is subscribed to the above instrument of writing, and says that the same is true.

Sworn to and subscribed before me this 30th day of November, A. D. 1900.

[SEAL.] WM. H. YOUNG,
Notary Public, Bexar County, Tex.

Mr. PLATT of Connecticut. It is nearly 2 o'clock. Before I object to the consideration of the bill, as I propose to do, I wish to say that it seems to me to set a precedent for payment to the owner of every piece of ground which was damaged by encampment upon it of United States troops. I think it a pretty serious case. I object to the consideration of the bill, and ask that it may go over under Rule IX.

The PRESIDENT pro tempore. The bill will go over under Rule IX.

STATEHOOD BILL.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which is House bill 14749.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. GALLINGER. Mr. President, I am not unmindful of the fact that this bill has been under discussion for so long a time that both the Senate and the country have to a great extent lost interest in it. For this reason I do not flatter myself that any contribution I can make to the subject will attract any special attention. Indeed, Mr. President, I had not intended to take any part in the debate, but the numerous petitions that I have from time to time presented to the Senate from the citizens of the In-

dian Territory praying that they may not be made part of the new State of Oklahoma unless prohibition is continued to them so impressed me with the importance of that phase of the question that I feel it my duty to make an appeal for these people, which I trust may be effective. The question is one that can not be lightly set aside, and I have reason to believe that the Senate is anxious to protect the people of the Indian Territory from the destructive effects of intoxicants if it can in any way be done. My hope is that the bill may be so amended as to accomplish that *result*, which will bring joy to the hearts of multitudes of good people all over our land.

I have already given notice of a proposed amendment to the bill, which I will ask the Secretary to read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The SECRETARY. It is proposed to insert the following:

The manufacture, sale, barter, or giving away of intoxicating liquors within that part of this State heretofore known as the Indian Territory, and in all the several other parts of this State known as Indian reservations at the time of the adoption of this constitution, is hereby prohibited for a period of twenty-one years after the date of the admission of this State into the Union, and thereafter until the people of this State shall otherwise provide by amendment of this constitution in the manner prescribed therein; and the legislature shall provide suitable laws with adequate penalties for carrying the provisions of this section into full force and effect, said laws to be effective from and after the termination of the Federal jurisdiction hereinafter provided for; and the Federal laws relative to intoxicating liquors now in force in Indian Territory and in the said Indian reservations, respectively, shall continue in force for a period of twenty-one years from and after the admission of this State into the Union, said subject-matter being and remaining under and subject to the exclusive jurisdiction of the United States for said period; and this State and the people of this State do, by the adoption of this provision in this constitution, hereby expressly consent to the continuation of such exclusive jurisdiction by the United States.

Mr. GALLINGER. It is my purpose to offer that amendment at the proper time as a substitute for the committee amendment, which reads as follows:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes of intoxicating liquors within that part of said State heretofore known as the Indian Territory or other Indian reservations within said State, be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

It will be gratifying to me if the committee, after the matter has been discussed, will accept this substitute, thereby, as I believe, greatly strengthening the bill and doing an act of simple justice to a people that by solemn treaty we are now obligated to protect from the ravages of strong drink.

The act of Congress entitled "An act making appropriations for current and contingent expenses and fulfilling treaty stipulations with Indian tribes for the fiscal year ending June 30, 1894," approved March 3, 1893, contains the following language in section 16, namely:

The President shall nominate and, by and with the advice and consent of the Senate, shall appoint three Commissioners *to enter into negotiations with* the Cherokee Nation, the Choctaw Nation, the Chickasaw Nation, the Muskogee (or Creek) Nation, the Seminole Nation for the purpose of the extinguishment of the national or tribal title to any lands within that Territory now held by any and all of such nations and tribes, either by cession of same or some part thereof to the United States, or by the allotment or division of the same in severalty among the Indians of such nations or tribes, respectively, as may be entitled to the same, or by such other method *as may be agreed upon between the several nations and tribes aforesaid*, or each of them, *with the United States*, with a view to such an adjustment upon a *basis of justice and equity* as may, *with the consent of such nations* or tribes of Indians, so far as may be necessary, be requisite and suitable to enable the ultimate creation of a State or States of the Union, which shall embrace the lands within said Indian Territory. * * *

Such Commissioners shall, under such regulations and directions as shall be prescribed by the President, through the Secretary of the Interior, *enter upon negotiation with the several nations of Indians* as aforesaid in the Indian Territory, and shall endeavor to procure—

First. Such allotment of lands in severalty to the Indians belonging to each such nation, tribe, or band, respectively, *as may be agreed upon* as just and proper to provide for each Indian a sufficient quantity of land for his or her needs, in such equal distribution and apportionment *as may be found just* and suited to the circumstances; for which purpose, *after the terms of such agreement shall have been arrived at*, the said Commissioners shall cause the lands of any such nation or tribe or band to be surveyed and the proper allotment to be designated.

Secondly. To procure the cession, at such price and *upon such terms as shall be agreed upon*, of any lands not found necessary to be so allotted or divided to the United States. * * *

But said Commissioners shall, however, have power to negotiate any and all such agreements as, in view of all the circumstances affecting the subject, shall be found requisite and suitable to such an arrangement of the rights and interests and affairs of such nations, tribes, bands, or Indians, or any of them, *to enable the ultimate creation of a Territory of the United States with a view to the admission of the same as a State into the Union.*

The Commissioners shall at any time or from time to time report to the Secretary of the Interior their transactions and the progress of their negotiations, and shall at any time and from time to time, if separate agreements shall be made by them with any nation, tribe, or band in pursuance of the authority hereby conferred, report the same to the Secretary of the Interior *for submission to Congress for its consideration and ratification.* (27 Stat. L., 645.)

I have thus quoted at length from the act creating the Commission to the Five Civilized Tribes, commonly known as the "Dawes Commission," in order to show—

1. That from the beginning Congress proceeded on the hypothesis that these Indian tribes were possessed of certain inherent rights which had not only to be reckoned with, but to be adjusted in a way satisfactory to said Indians; that the said Commission was created to *negotiate with* these tribes with a view to reaching a statement of terms and conditions upon which they would agree to surrender their tribal authority, agree to have their lands allotted in severalty, and to admit the white man to citizenship in their country, without which agreement on the part of the Indians the United States Government considered itself at that time as powerless to proceed. Note the frequent recurrence of such phrases as "negotiate with," "as may be agreed upon," etc.

2. To show that this Commission was not vested with plenipotentiary power it is only necessary to point out that its transactions were to be reported back for the ratification of Congress. If this Commission should agree with these tribes to do anything which Congress should not approve, which Congress did not intend to do, which Congress did not have the right under the Constitution to do, then when such transactions should be reported back for the consideration of Congress it would devolve upon Congress at that time and while these stipulations were then under consideration to so decide, and accordingly refuse or fail to ratify them or any of them. So that if these Indian tribes entered into agreements with the said Commission which contained stipulations that should not subsequently be ratified by Congress they were advised from the beginning that such stipulations would, by such failure of Congress to ratify them, become invalid.

But, on the other hand, these Indians and the people of the United States, as well as the philanthropic citizens of other nations of the earth who may be interested in certain aspects of the pending bill proposing to give statehood to Indian Territory, were entirely justified in concluding that so much of the negotiations, transactions, and agreements entered into between these tribes of Indians and the said Commission, and afterwards ratified by a vote of both Houses of Congress, and subsequently approved by the signature of the President—these Indians and the people of the United States and of the world were entirely justified in feeling assured that what was thus agreed to and ratified the Congress of the United States meant to do, and meant to find or devise ways and means of doing.

I now desire to call attention to a paragraph contained in the act entitled "An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1897, and for other purposes," approved June 10, 1896, as follows, namely:

And said Commission is directed to continue the exercise of the authority already conferred upon them by law and *endeavor to accomplish the objects* heretofore prescribed to them, and report from time to time to Congress.

Directed to "continue * * * and endeavor to accomplish the objects." This language implies that about three years after the Dawes Commission was created there was considerable doubt whether any agreement could be reached by and with these Indians setting forth a statement of the conditions under which they would be willing to surrender to the dominion of the white man. These tribes recognized that in the new order of things as contemplated there were grave dangers for them and their posterity.

TERMS AND CONDITIONS FINALLY AGREED UPON.

At length, however, a bill was introduced in Congress containing the agreements which had been entered into by the Dawes Commission with the Muskogee (or Creek) Nation and with the Choctaws and Chickasaws, entitled, as it may be well to note in this connection, "An act for the protection of the people of the Indian Territory, and for other purposes." This act, after passing the House and Senate, was approved by the President June 28, 1898. "An act to ratify the agreement between the Dawes Commission and the Seminole Nation of Indians" was approved July 1, 1898, a supplemental agreement with the Creeks was approved March 1, 1901, whereas the act entitled "An act to provide for the allotment of the lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes," being likewise the agreement between the Dawes Commission and the Cherokees, was not approved until July 1, 1902.

Now, there was one condition stipulated in these agreements with these several tribes which merits and demands our earnest consideration at this time. In the agreement with the Musko-

gee or Creek tribe, as thus ratified by Congress, we find the following language (30 Stat., 518):

36. The United States agrees to maintain strict laws in the territory of the said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

And the supplemental agreement contained in "An act to ratify and confirm an agreement with the Muskogee or Creek tribe of Indians, and for other purposes," approved March 1, 1901 (31 Stat., 861), reiterates the same condition in almost identical language, as follows:

43. The United States agrees to maintain strict laws in said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind whatsoever.

In the agreement with the Choctaws and Chickasaws, commonly known as the "Atoka agreement," the same condition is explicitly stipulated, as follows (30 Stat., 509):

The United States agrees to maintain strict laws in the territory of the Choctaw and Chickasaw tribes against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

In the agreement with the Seminole tribe, as thus ratified by Congress, the same stipulation is expressed, as follows (30 Stat., 568):

The United States agrees to maintain strict laws in the Seminole country against the introduction, sale, barter, or giving away of intoxicants of any kind or quality.

In the agreement with the Cherokees, while the language covering this point is not so explicit, the force and effect is substantially the same. In section 73 of the act referred to, entitled "An act to provide for the allotment of the lands of the Cherokee Nation," etc., approved July 1, 1902, it is provided that "no act of Congress or treaty provision inconsistent with this agreement shall be in force in said nation except sections 14 and 27 of said last-mentioned act, which shall continue in force as if this agreement had not been made." The "last-mentioned act" referred to here is the "act for the protection of the people of Indian Territory," approved June 28, 1898, containing, as has been stated, the agreements between the Dawes Commission and the Creeks, Choctaws, and Chickasaws, and also certain other provisions of general application throughout the Indian Territory (30 Stat., 495). This act, being of anterior date to the "act to provide for the allotment of the lands of the Cherokee Nation," contained some sections of general application which were repealed by the later act. But section 14 of the earlier act was expressly exempted from repeal by the later act. The said section 14 deals in part with the putting and retaining in force certain laws of the State of Arkansas in the Indian Territory, which paragraph concludes with a proviso containing the following language, namely:

Provided, That nothing in this act or in the laws of the State of Arkansas shall authorize or permit the sale or exposure for sale of any intoxicating liquor in said Territory or the introduction thereof into said Territory.

Now, while it is not claimed that this language constitutes an express condition upon which the Cherokees consented to the allotment of their lands and the abolishment of their tribal government, as without doubt was and is the case with the Choctaws, Chickasaws, Creeks, and Seminoles, yet it shows that the spirit and purpose of the parties to the agreement were the same on this subject as in the agreements with the other four tribes; and it does unequivocally declare that the stipulations of former treaties with this tribe on this subject were and are not inconsistent with this latest agreement, and are therefore not repealed thereby.

In the treaty with the Cherokee Nation of July 19, 1866, occurs the following provision:

ARTICLE 27. The United States shall have the right to establish one or more military posts or stations in the Cherokee Nation, as may be deemed necessary for the proper protection of the citizens of the United States lawfully residing therein and the Cherokee and other citizens of the Indian country. But no sutler or other person connected therewith, either in or out of the military organization, shall be permitted to introduce any spirituous, vinous, or mait liquors into the Cherokee Nation, except the Medical Department proper, and by them only for strictly medical purposes. (Indian Laws and Treaties, Vol. II, p. 949.)

This was in keeping with a strict prohibitory law put into operation by the Federal Government throughout Indian Territory in the year 1832—seventy-two years ago—and these laws have been maintained both by the Federal Government and the Indian tribal governments unto this day. So far as I am aware, there has never been any serious debate as to the *wisdom* or the *necessity* of these laws. *They have always been regarded as essential to the maintenance of good order in that country.*

What could be more natural, then, when negotiations began to develop looking toward a great change in that country such as was set forth in the act of Congress creating the Commission to the Five Civilized Tribes, that these tribes, before agreeing to surrender themselves and their children to the political dominion of their white neighbors—a new order of things of which they could not be in control—should reserve as one of the express conditions of their agreement thereto, as they did so reserve, that the United States should see to it that these vitally important laws should be continued.

And what could be more shocking to the conscience of this nation than that a bill should be passed giving statehood to this Indian country under such conditions as render it almost morally certain that these sacred pledges, which involve the very perpetuity of these dependent races, will not be kept? If this bill voices the wishes of the American people in this matter, it were pertinent in this connection to raise the question, which has been raised elsewhere, whether there be any such thing in this Christian land as a national conscience.

Is it any answer to this question for Senators to suggest constitutional difficulties? Were not the conceptions of Congress as to its constitutional limitations as clear in the years 1898, 1901, and 1902, when it ratified these agreements of the Dawes Commission with these Indian tribes, as they are in the year 1905? If Congress did not mean to keep this promise in good faith, or did not have the power to do so, would it not have been preeminently the right thing to have said so at that time?

HOW THE TREATIES WERE UNDERSTOOD WHEN SIGNED.

On the other hand, if there be doubt in the minds of Senators about the meaning of this stipulation in the agreements—whether it was intended and understood that this obligation would terminate with the extinguishment of the tribal governments on March 4, 1906, or whether it was not rather to *commence then and be operative thereafter*—then this is a question not very difficult to be answered. If these provisions relative to the prohibition of the sale of intoxicating liquors were intended to operate only up to the extinguishment of the tribal governments, then they were and are altogether without virtue and meaning, and it was a useless waste of words to incorporate them in the agreements at all, for the reason that up to the time of such extinguishment this matter is taken care of by both tribal and Federal laws now in operation. So that it is not until after the discontinuance of laws then in force, and which it was not proposed to discontinue until March 4, 1906, that the virtue of these promises and provisions could become operative; and it was concern for what should follow the cessation of laws then and now operative which induced these tribes to require this condition in the agreements.

However, if this view of the case is not satisfactory to Senators, then it is only necessary to recommit this bill and call before the committee the persons who negotiated these agreements and secure their testimony as to what was understood by these provisions at the time the agreements were entered into. It has been said that these promises to which I refer were in the old treaties, which guaranteed to the Indian the unmolested possession of his territory "so long as the sun shines, and grass grows, and water flows." Why, Mr. President, these provisions against the sale of intoxicating liquors are contained in the very latest agreements that have been negotiated with these tribes—except, perhaps, several minor supplemental agreements. It has been less than three years, four years, and seven years, respectively, since these agreements with the several tribes were ratified. Persons who acted for the Government and those who acted for the Indians are still living, and I have been told that some of them were desirous and are still ready to come before the Senate Committee on Territories and testify as to how these provisions were discussed and understood when they were signed—if, indeed, there can possibly be any real doubt as to their meaning.

But we do not have to resort even to that expedient in order to secure direct and ample evidence upon this point. I have here the written testimony of two of those who negotiated and signed these agreements in behalf of the Indian tribes. The gentleman who is in Washington representing the united Christian churches of Indian Territory—which have come here and lodged their plea with the Senate that the United States Government do not act in bad faith toward these helplessly dependent races, who have hypothecated their all, themselves and their posterity, upon their faith that this Christian Government would keep its word—when this gentleman observed that Senators were, some of them, disposed to put this short-term construction upon these treaty pledges he communicated with two of the commissioners who signed the agreements in behalf of the Indian tribes, with whom he was personally acquainted, and asked them how the Indians understood the paragraph pertaining to intoxicating liquors.

I have here their replies, which I will send to the desk to be read. The first letter is that of N. B. Ainsworth, of South McAlester, one of the Choctaw signers of the Atoka agreement.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

SOUTH MCALESTER, IND. T., *January 16, 1905.*

E. M. SWEET, Jr., *Washington, D. C.*

MY DEAR BROTHER: Replying to your's of January 5, 1905, I will say that it was my intention and desire when we made the Atoka agreement that the prohibition clause should remain in all succeeding legislation. You will notice the word "territory" has a small "t," and hence means the lands of the Indians. Had the word commenced with a capital "T" it might have been construed to mean our "Indian Territory," as commonly used in treaties, bills, etc. At the time we made the treaty we expected to divide *all of our lands* (see first of the treaty), and had we adhered to this intention you can see that all our lands would still be the territory of the Choctaws and Chickasaws, though Congressional legislation might have blotted out the "Indian Territory."

In fact, we expected Congress to continue to "modify" our government until our lands or territory would become a part of a Territory or State. The Indian Commissioners knew this would finally come. I think Congress just as much bound to keep faith with us on this prohibition clause as on the clause to free certain lands from taxation and other privileges. The commissions who represented the Choctaws and Chickasaws would hardly have been persuaded into an agreement when we knew that our people were to be debauched at the end of March 4, 1906, by the open saloon. We knew then, as we know now, the weakness of our people for whisky, and we knew then, as we know now, that if whisky is free in this country when our tribal governmen ceases it would have been equal to our signing not only the disgrace, but an ignominious death warrant of many, many Indians.

I am clearly of the opinion that we would have perpetual prohibition in that form of government which should succeed our tribal government [and] was in the minds not only of the Indian Commissioners, but also of the United States Commissioners.

I appreciate what Congress is doing to keep the Indians out of the grip of the grafters, and I hope Senator STEWART'S amendment will pass, but unless Congress keeps whisky out of this part of our country when it becomes a part of Oklahoma I do not think there is much hope for the average Indian, full blood or mixed.

I hope therefore you will succeed in getting prohibition for the Indians.

Your friend and brother. N. B. AINSWORTH.

Mr. GALLINGER. Mr. President, the second of these letters is signed by Pleasant Porter, principal chief of the Creek Indians, and who was chairman of the commission who negotiated and signed the agreement with the Dawes Commission in behalf of that tribe. I ask that the Secretary may read the letter.

The PRESIDENT pro tempore. The Secretary will read, as requested.

The Secretary read as follows:

NATIONAL HOTEL,
Washington, D. C., January 20, 1905.

Mr. E. M. SWEET, Jr., *Washington, D. C.*

DEAR SIR: In answer to your inquiry as to the meaning of section 43 of the agreement made between the Muskogee Indians and the Dawes Commission and afterwards ratified by Congress, and approved by the President March 1, 1901, according to the understanding of the Indian signers of such agreement at the time of signing, I desire to say that we understood that the United States Government obligated itself to continue the prohibition of the sale of intoxicating liquors, and we did not understand that this paragraph was to operate only until March 4, 1906, or that there was to be any limit to its operation. We would not have been willing to sign an agreement if we had understood that it would result in the open sale of liquor in our country.

Yours, truly,

P. PORTER,
Principal Chief Muskogee Nation.

Mr. GALLINGER. Mr. President, I also desire to have read a letter, in connection with which the two letters just read were transmitted to me, inasmuch as it also contains a word upon the point in question. This letter is signed by E. M. Sweet, jr., secretary of the Indian Territory Church Federation for Prohibition Statehood, a gentleman who has done a vast deal of good work in the Indian Territory and who is greatly disturbed at the present time in reference to this very important question, which, in his opinion, will result in the direst disaster to the people of that Territory unless prohibition is continued.

The PRESIDENT pro tempore. The Secretary will read the letter, as requested:

The Secretary read as follows:

INDIAN TERRITORY CHURCH FEDERATION FOR
PROHIBITION STATEHOOD,
Washington, D. C., January 21, 1905.

Hon. J. H. GALLINGER,
United States Senator, Washington, D. C.

DEAR SENATOR GALLINGER: I beg to hand you herewith letters which I have received from N. B. Ainsworth, of South McAlester, Ind. T., and Chief Pleasant Porter, of Muscogee, Ind. T., commissioners who signed the recent agreements for the Choctaw and Creek tribes, respectively. These communications, as you will note, bear direct testimony to the understanding of the Indian representatives as to the meaning of the paragraph in the agreements which relates to the sale of intoxicating liquors.

When General Porter handed me his letter at the National Hotel yesterday he proceeded to relate an incident which I wish had been incorporated in his written statement, as it places absolutely beyond doubt the point to which these communications pertain. Said he, substantially:

"I remember that when this paragraph was being discussed before the agreement was signed, one of our Indian Commissioners rather objected, saying that he doubted whether it was best to make an agreement that liquor never should be sold. I told him that this had always been the law, and I thought it was best to keep it so; that we hoped to get a State into which such people as want to sell liquor will not be encouraged to come, but one that will be filled up with people who believe in temperance—this would be the best thing for our Indian people. That seemed to satisfy him, and he signed the agreement."

Here was one of the Indians who hesitated about signing and had to be persuaded by his chief, for the very reason that it was understood by all parties that the paragraph meant prohibition in perpetuity.

I desire to add that I have talked this matter over with Hon. A. S. McKennon, of South McAlester, who, as a member of the Dawes Commission, signed these agreements on behalf of the United States. He says this paragraph was discussed fully, especially in the case of the Atoka agreement (the first negotiated), and that the commissioners representing the United States and those representing the Indian tribes both understood and intended that this prohibition should be perpetual. It was our purpose that Captain McKennon, as well as a number of others, should appear before the committee, had hearings been given. Of course I am not lacking in appreciation for the courtesy of the committee in according to me the privilege of making a statement before them, but I felt that this was far inadequate in view of the very great importance of the question at issue.

I was told by a prominent member of the Committee on Territories that we were too late—that this matter ought to have been taken up two years ago. The reason we did not take it up earlier was that we supposed it had already been settled. We did not want anything better than had already been clearly stipulated in the agreements by the Government with the Indian tribes, and we did not suspect the possibility of these provisions not being faithfully complied with, until the Hamilton bill had passed the House omitting any reference to the same.

Sincerely, yours,

E. M. SWEET, Jr.,
Secretary Indian Territory Church Federation for Prohibition Statehood.

Mr. GALLINGER. Mr. President, it seems to me there can be no reasonable doubt that the prohibition of the sale of intoxicants was one of the express conditions under which, and one of the valuable considerations by reason of which, these Indians agreed to the allotment of their lands in severalty and the admission of the white man to their country. And to my mind, one of the most pathetic pictures in recent history was the convention of governors or principal chiefs of the Five Civilized Tribes assembled at Eufaula, Ind. T., May 21, 1903, adopting resolutions praying that this strong Christian Government keep faith with them and not thrust upon them a form of government contrary to treaty stipulations and in which their people would not be protected from the ruinous effects of intoxicating liquors. One paragraph especially of these resolutions I desire to quote:

We further recommend that the general council of each nation address a memorial to the various religious and temperance organizations of the United States requesting them to assist the Indians of the Five Civilized Tribes in their efforts to prevent the annexation of the Indian Territory to Oklahoma and to secure a State government for Indian Territory under a constitution which will protect the Indian from the baleful influence of intoxicating liquors. (Hearings before House Committee on Territories, 58th Cong., vol. 2, p. 740.)

Pathetic, indeed, is this plea, signed by all of the five chiefs of the Five Civilized Tribes; but more pathetic still—yes, almost tragic—are the words of one of them, when he said:

I am unable to believe that the Government will lie to us on our deathbed!

THE DEMAND OF THE FEDERATED CHURCHES.

It may be well for us to consider just here that there is a very large and very respectable portion of the population of Indian Territory and of these entire United States who are now dwelling in much anxiety lest we be about to commit a great national crime. Partly in response to the plea of the five Indian chiefs as quoted above, and partly in protection of their own work and interests outside of the Indian population, the several Christian denominations in Indian Territory met together in convention at South McAlester on September 27–28 last and organized the Indian Territory Church Federation for Prohibition Statehood. This church federation, I am told, represents the cooperation of every religious denomination in Indian Territory, so far as is known, besides the temperance societies and others interested in its purpose, regardless of their religious belief. On the board of directors are Baptists, Presbyterians, Methodists, a Catholic priest, Disciples, and other churchmen, both white and Indian, as well as some not members of any church, who are very much interested in seeing the faith of the Government kept with these Indians and prohibition continued in the Territory. These people have been sending to this Congress large numbers of petitions and memorials praying that the pending statehood bill be so amended as to effectively continue the prohibition of the liquor traffic in Indian Territory, according to the treaty pledges with the Indians, or else to eliminate Indian Territory from the statehood bill altogether and leave that Territory as she is rather than force upon her a condition wherein the hands of evil would be made stronger in that new country than the hands of right.

These petitions and memorials come from the pioneers of the Christian churches that have sent out their missionaries, who for three-quarters of a century have been laboring among these Indians, and have done more by far than all other influences

combined to develop the measure of civilization which the Indians now enjoy, as well as doing more than all other influences combined to make that country habitable to the white man and his family. Meanwhile the churches in the States have been from year to year collecting missionary moneys to keep this work going on; so that this question is one in which the churches of this entire country are interested, and they have been sending petitions to the Senate protesting against the removal of Federal authority in Indian Territory until there can be assurance that that country is not going to be opened to the liquor traffic.

I can perhaps not better present this question from the view point of these churches than to submit herewith the report of the committee on temperance of the Indian mission conference of the Methodist Episcopal Church South, as adopted at the session of that conference assembled at South McAlester, Ind. T., October 27, 1904. Mr. President, I will ask permission, without reading it, to make this report a part of my remarks. It takes strong ground against legislation that will repeal the prohibitory laws of that Territory and that will subject these Indians to the baleful influences of strong drink.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from New Hampshire? The Chair hears none.

The report referred to is as follows:

Report of committee on temperance.

SOUTH MCALESTER, IND. T., *October 27, 1904.*

To the Bishop and Members of the Indian Mission Conference, M. E. Church South.

DEAR FATHERS AND BRETHREN: Your committee on temperance beg leave to report that they are under the conviction that the Indian Territory, the Indian Mission Conference, and the church of Christ of every name within said Territory, are now upon the verge of the most supreme crisis in their history. Since the year 1832 the Federal Government and the governments of the several tribes of Indians occupying Indian Territory have maintained strict laws against the sale of intoxicating liquors within said Territory. These seventy-two years of experience have confirmed both the United States and the several tribal governments in the belief that such laws and their strict execution have been not only wise but absolutely necessary to good order in a country containing a population of such varied mixture as this.

So much so, that when the Federal Government recently constituted a Commission to negotiate with the Five Civilized Tribes in order to arrive at a statement of terms upon which said tribes would agree to surrender the traditions of their fathers, permit the extinguishment of their tribal governments, admit the white man to equal privileges of citizenship in their country, and be absorbed by a new order of civilization the control of which would necessarily be vested in their new neighbors and not in themselves, one of the conditions of such change of government, agreed to and signed by the duly accredited representatives of the Five Civilized Tribes, agreed to and signed by the duly accredited representatives of the United States, namely, the Dawes Commission, subsequently agreed to and approved by vote of both Houses of the National Congress, and subsequently agreed to and approved by the signature of the President of the United States, was explicitly stipulated in the following language, namely: "The United States agrees to maintain strict laws in the territory of said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality." This is the language of the agreement with the Creek Nation, and the agreements with the four other nations contain words to the same effect.

But notwithstanding all this the bill proposing to give statehood to the two Territories, commonly known as the "Hamilton bill," which has passed the House of Representatives and is now pending before the Senate, with the possibility and some measure of probability that the same may be finally enacted within six weeks or two months from this date, entirely ignores this sacred pledge of our Government to a confiding and helpless people. Your committee beg leave to represent that for said bill to be passed and approved without a sufficient amendment on this point would constitute an act of simple perfidy, bad faith, perpetrated by a nation indebted more largely than any other on earth for the abundant blessings of Jehovah. Moreover, no greater calamity could come to this fair youthful land than this most effective device of damnation which the inventive genius of devils has been able to produce.

The saloon is a dire evil in any community, even under the most successfully stringent regulations; but our condition would be the most aggravated and our suffering from this curse would be the most intense that has been exhibited in the history of our country, if not of the world. Even if we could be left to ourselves in the struggle, we would be in a worse condition than any of the States, because of our larger percentage of untried and untempered population. But add to this the consideration that Texas, Arkansas, Mississippi, Georgia, Kentucky, Tennessee, Ohio, and other of our neighborhood of States have within the last few years voted the saloon out of about two-thirds of their territorial area; as a consequence, many thousands of saloon keepers, gamblers, and other criminal classes of the basest sort have been thrown out of their chosen employment and are eagerly awaiting for new opportunities and openings for their nefarious business; the $524,000,000 invested in breweries and distilleries in the United States has suffered likewise a curtailment of its commercial territory, and is seeking eagerly to regain elsewhere what it has lost through these many recent prohibition victories; and here in our midst is about to be opened a paradise for saloon keepers and gamblers—a country wherein is much money to be spent by people without training in how to spend it, and a country whose society and laws are in their formative state and which is therefore unprepared to battle with such forces of evil.

We would at once become the cesspool for the dumping of the moral garbage of the nation, and, not to mention the calamity resulting to the political and commercial interests of the new Commonwealth, the kingdom of God would be set back two generations. Your committee believe it is not extravagant to suggest that, as an investment for the kingdom of heaven, to stay this curse at this time would be worth the life of every member of this conference. If the saloon comes with statehood, it will be the direct means of damning more souls than all our preaching will save during the balance of our lives. Therefore, be it

Resolved, First, that we have noted with gratification and approval the formation of the Indian Territory Church Federation for Prohibition Statehood, organized at South McAlester, September 28, 1904, by a convention participated in by all the several denominations of the church in Indian Territory, whose purpose is to secure such legislation from Congress as will be consistent with the good faith of the Federal Government toward the Five Civilized Tribes and will continue in Indian Territory laws for the prohibition of the liquor traffic such as the experience of seventy-two years has proved to be wise and necessary.

Second, that we indorse the purpose and work of the said Church Federation, bearing especially in mind the clause of its constitution which commits the organization to "an attitude of neutrality upon the question of single or separate statehood for the two Territories, and upon all other questions of public policy not directly concerned with the traffic in intoxicating liquors;" and we do hereby invite and urge all our preachers, laymen, and other members and friends of the church to cooperate with said Church Federation in all its plans for accomplishing the end in view.

Third, that, in view of the limited time until Congress shall convene and probably act upon this question, we recommend that all our preachers and lay delegates take the subject up earnestly with the people of their respective churches and communities immediately upon returning home after the adjournment of this conference, collecting funds for defraying the expenses of the work of the Indian Territory Church Federation, securing signatures to petitions to Congress, securing as far as practicable the cooperation of the local press in their respective communities, and meanwhile in all these things acting as far as possible in conjunction with the pastors and members of other churches and all other forces which it may be possible to enlist.

Fourth, that we earnestly solicit our beloved bishop presiding and the several connectional officers of our church, as well as the several editors and brethren from the States now visiting our conference, to take our cause earnestly upon their hearts and everywhere they may go to enlist the active interest of good people in our behalf, urging them to communicate with their Senators and Representatives in Congress and secure their active support of our measure.

Fifth, that this session of our conference pass a resolution memorializing Congress of the facts and conditions above set forth, and appealing for such protection as will fulfill in good faith the pledge of the Federal Government to the Five Civilized Tribes.

* * * * * * *

Respectfully submitted.

S. F. GODDARD, *Chairman.*
ORLANDO SHAY, *Secretary.*

Mr. GALLINGER. As I have suggested, the congregations of these several religious denominations throughout the States have been for many years collecting moneys which have been expended in missionary and educational work among these Indians. If we could make an exhibit here of the total moneys that have thus been raised and expended by the churches of this country, not to mention the lives of missionaries and teachers that have been given to Christianizing, civilizing, and educating these Indians—fitting them for the responsibilities of statehood—it would be, I am persuaded, food for wholesome reflection on the part of the Senators before they vote upon this bill.

I have here an incomplete statement of the expenditures of three of these religious denominations, which is as follows:

BAPTIST.

Amount expended by the American Baptist Home Mission Society in mission work among Indians in Indian Territory prior to organization of Oklahoma—that is, from 1865 to 1890—nearly all of which was expended in what is now Indian Territory	$67,884.15
Expended for mission work in Indian Territory from 1890 to 1905	93,122.28
Appropriations to aid in erecting church edifices	22,709.08
For educational work	239,899.01
Total	423,614.52

METHODIST.

Amount expended by the Board of Missions of the Methodist Episcopal Church South, in mission work in Indian Territory from 1844 to 1905, exclusive of expenditures of women's and church extension boards	783,642.75
Expended by the Woman's Board of Foreign Missions, same church, for work among the Indians of Indian Territory from 1883 to 1905	89,075.00
Expended by the Woman's Home Mission Society of same church, 1887 to 1905	9,188.00
Total	881,905.75

PRESBYTERIAN.

Amount expended by the Board of Foreign Missions of the Presbyterian Church in the United States for mission work in Indian Territory from 1834 to 1882	$523,415.01
Amount expended by same board, 1882 to 1889	70,320.98
Amount expended by the Board of Home Missions of the Presbyterian Church in the United States for mission work in Indian Territory from 1882 to 1889 (approximately)	400,000.00
Amount expended by same board for mission and educational work in Indian Territory from 1899 to 1904	1,091,735.12
Total	2,085,470.21
Grand total for only three denominations	3,390,990.48

Now, if I were prepared to add to these figures the expenditures of the other denominations that have been doing mission-

ary work in Indian Territory for years, the showing would be much larger.

The foregoing statement shows that the American Baptist Home Mission Society has expended in mission work in Indian Territory sums aggregating $423,614.52. I now desire to send to the desk and have read a memorial passed by the executive committee of this same American Baptist Home Mission Society, at a meeting of the same at their general offices in New York City on the 9th instant.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

Resolutions—Prohibition in Indian Territory.

Whereas the United States Government entered into a solemn agreement with the Indians of the Five Civilized Tribes of the Indian Territory, forever prohibiting the sale, barter, or giving of intoxicating liquors to any person within the district now constituting the Indian Territory; and

Whereas there is at present before the Congress of the United States a bill (House Bill No. 14749) to constitute a State of the Indian Territory, either separately or in conjunction with Oklahoma:

Resolved, That we, the executive board of the American Baptist Home Mission Society, most earnestly call upon the Congress of the United States to make such provision in the bill now pending (H. R. 14749) as may be necessary to continue and secure the permanent enforcement of the said agreement in regard to the sale, barter, or giving of intoxicating liquors to any person within the district now constituting the Indian Territory.

I, Alexander Turnbull, recording secretary of the executive board of the American Baptist Home Mission Society, do hereby certify that the above action was duly taken by the said board, a quorum being present, at its regular meeting on January 9, 1905.

In witness whereof I have hereunto set my hand and affixed the seal of the society this 18th day of January, 1905.

ALEX. TURNBULL,
Recording Secretary of Executive Board.

Attest:
H. L. MOREHOUSE,
Corresponding Secretary.

[SEAL.]

Mr. BERRY. Will the Senator from New Hampshire yield to me for a question?

Mr. GALLINGER. With pleasure.

Mr. BERRY. I desire to ask if the Committee on Territories have reported an amendment to the statehood bill on this subject?

Mr. GALLINGER. They have.

Mr. BERRY. What is the intent of the amendment?

Mr. GALLINGER. I had it read.

Mr. NELSON. If the Senator from New Hampshire will allow me——

Mr. GALLINGER. Certainly.

Mr. NELSON. I will say that it is an amendment limiting the prohibition to ten years after the Territory shall be admitted to statehood.

Mr. BERRY. The question that I desired to ask the Senator from New Hampshire following that, was whether in case this Territory is admitted in conjunction with Oklahoma as a single State, the provision reported by the committee will be satisfactory to the religious organizations and to the Indians themselves?

Mr. GALLINGER. I am arguing, Mr. President, that it is not satisfactory to them.

Mr. BERRY. I did not hear all of the Senator's argument.

Mr. GALLINGER. But the amendment which I have submitted as a substitute is satisfactory to those organizations.

Mr. BERRY. I want to vote for such a provision as will be satisfactory, and I was not aware as to whether the committee's amendment would be satisfactory.

Mr. GALLINGER. I hope the Senator will examine the committee amendment and also the amendment which I propose as a substitute.

Mr. BERRY. I was not aware of the provisions of the proposed substitute.

Mr. BATE. I will suggest to the Senator that the original bill proposed to make the prohibition period twenty-one years. The Senate committee has changed that to ten years, and has qualified the provision by using the word "thereafter."

Mr. CULLOM. Mr. President, by leave of the Senator from New Hampshire, I will read what the committee of the Senate, as I understand, have reported to insert. The provision is as follows:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory, or other Indian reservations within said State, be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

That simply means, as I understand it, that after they get a legislature and the legislature has a session they can repeal the prohibition law or enact a law satisfactory to themselves.

Mr. KEAN. The prohibition period extends for ten years.

Mr. GALLINGER. It will be even worse than what the Senator from Illinois suggests.

Mr. KEAN. They can not change it for ten years.

Mr. GALLINGER. It will be even worse than that, as I will show as I go along.

Mr. CULLOM. May I ask the Senator another question?

Mr. GALLINGER. Certainly.

Mr. CULLOM. The question has been raised as to the power of Congress in legislating for a State in advance of its admission as a State to bind the State after its admission; but I ask the Senator whether the provision in the first part of the bill does not cover that case and attempt to do just what some people think ought not to be done with reference to legislation for a State?

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

Mr. GALLINGER. Mr. President, that proviso shows that the committee believes that Congress can require a new State to put in its constitution a provision such as I am advocating. But I shall undertake to show—I do not know how successful I will be—that the committee amendment, intended in good faith to reach this very important matter, will not be effective.

Mr. BERRY. Will the Senator permit me to say one more word, inasmuch as I interrupted him?

Mr. GALLINGER. Certainly.

Mr. BERRY. I simply desire to say, to reenforce what the Senator from New Hampshire is stating, that I live in Arkansas in a county which adjoins the Cherokee Nation. I have been thoroughly familiar with the Indians of those Five Tribes for a great many years. I regard it as of absolute importance to them and necessary for their protection that the strongest possible provision that can be inserted in this bill which will protect them from the indiscriminate sale of liquor shall be made. I desired to say that, and that is the reason I asked the question.

Mr. CULLOM. If the Senator from New Hampshire will allow me, I raised those questions not for the purpose of stating that I did not agree to the proposition that we have not the power to prevent or prohibit the sale of liquor among the Indians, but to get the opinion of the Senator from New Hampshire, as he has the floor and is prepared to address the Senate on those particular questions.

Mr. GALLINGER. Mr. President, as I was about to say—and I thank the Senator from Arkansas [Mr. BERRY] for his assurance that he is in full sympathy with my desire, although he may not agree with my methods to accomplish this result—I was about to say that I shall endeavor to show——

Mr. BERRY. I think I do agree with the Senator's methods entirely. I say, Mr. President, I so much agree with them that I have always hoped and believed that it would be better to give the Indian Territory itself single statehood, so that prohibition laws might be enforced, rather than to couple it with another Territory. That has always been my judgment about it, and this is one of the strongest reasons for it.

Mr. STEWART. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Nevada?

Mr. GALLINGER. Certainly.

Mr. STEWART. I propose to take the ground that the United States will not lose its power of legislation affecting the Indians by the admission of the State; that it is its duty to do that, particularly to enforce the temperance law to the fullest extent; that that duty will not be discharged when the State is admitted. I propose to show by decisions of the Supreme Court that it will continue.

Mr. CULLOM. Under treaties?

Mr. GALLINGER. I am very glad to get that testimony, too. If that be so, of course the Senator has no objection, I take it, to putting in the pending bill a provision for Federal control of that matter.

I was about to call attention to the fact to which the Senator from Illinois has alluded, that as a matter of fact the bill itself recognizes the right of the Federal Government to make laws for this Territory after it becomes a State.

Mr. CULLOM. That is my understanding.

Mr. GALLINGER. In this proviso—

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

Mr. TELLER. May I ask the Senator a question?

Mr. GALLINGER. Certainly.

Mr. TELLER. Does the bill provide for any stipulation of that character being inserted in the constitution of the new State?

Mr. GALLINGER. Yes. The language preceding the proviso is as follows:

That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma and the Indian Territory, as at present described, may adopt a constitution and become the State of Oklahoma, as hereinafter provided—

It is an explicit stipulation that it shall be a part of the constitution.

Mr. KEAN. That is what is intended.

Mr. TELLER. It is not in the form of stipulations such as we have been in the habit of making; for instance, such as we made in the Utah case. We provided there positively that the State should not be admitted unless it did incorporate in its constitution certain things. This bill ought to be amended in that way. As I understand it, under this bill, if the State neglects or refuses to put in its constitution the provision in question it will still be a State in the Union.

Mr. NELSON. Oh, no.

Mr. GALLINGER. I think not.

Mr. NELSON. If the Senator will allow me, unless they incorporate this in the constitution——

Mr. GALLINGER. It does not become operative.

Mr. NELSON. They can not be admitted.

Mr. CULLOM. It does not say that.

Mr. NELSON. The President is authorized, by proclamation, after the constitution has been ratified, to admit it as a State, but the constitution must contain these provisions.

Mr. TELLER. I am not certain that the constitution must. I am only speaking of what might be or may be. I do not assert that the bill does that. I do not think it does.

Here is another question which I should like to have somebody discuss. I think I shall probably discuss it myself, but I should like to hear somebody else discuss it: What will prevent this State in two or three years from changing that particular provision of the constitution?

Mr. CULLOM. Nothing.

Mr. BERRY. There is the trouble.

Mr. GALLINGER. I hope the Senator from Colorado will discuss that question, because it is an important one. Of course, some of us believe that if the new State puts in its constitution a provision such as I am advocating, it will not stultify itself by changing that provision in disobedience to the express view of the Congress of the United States. But I leave that to other Senators.

Mr. President, the great work which the Baptist Church has done in the Indian Territory began many years ago. My attention has been attracted to a communication from one of the missionaries of this denomination who went out to work among these Indians in the year 1857, and is working there among them yet—Rev. J. S. Murrow, superintendent of the Indian orphanage at Atoka, Ind. T. Seeing, as he believes, the many wrongs that these Indian tribes are suffering, this venerable missionary recently wrote a lengthy letter to the President of the United States, from a copy of which I have clipped a paragraph that I desire to read in this connection. After going on for more than two columns to discuss many of the complex features of the Indian's present status, this earnest-minded missionary says:

But the greatest danger of all to these full bloods will be to open this Territory to licensed whisky saloons. This will destroy them faster than anything else. I beg to say, after deliberate consideration and after earnest prayer, that I believe it would be better for the Government to send a regiment or two of soldiers out here and have these full-blood Indian men shot to death than to open this Territory to whisky saloons. It would be more merciful.

Mr. President, the statistics which I have submitted show that the Methodist Episcopal Church South has expended in mission work in the Indian Territory the aggregate sum of $881,905.75. I now desire to send to the desk, and have read by the Secretary, a memorial from the Indian mission conference of that church bearing upon this subject.

The PRESIDING OFFICER (Mr. NELSON in the chair). The Secretary will read as requested.

The Secretary read as follows:

Memorial to Congress.

Whereas for seventy-two years the United States Government and the several tribal governments of Indians occupying Indian Territory have seen the wisdom and necessity of prohibiting the sale of intoxicating liquors within said Territory; and

Whereas in the agreements recently entered into between the said Five Civilized Tribes and the Federal Government looking toward the allotment of lands in severalty, one of the conditions upon which the said Indians consented to the extinguishment of their tribal governments and to the admission of the white man to equal privileges of citizenship was expressly stipulated as follows, namely: "The United States agrees to maintain strict laws in the Territory of said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality;" and

Whereas such agreements containing such stipulation were not only duly signed by the Dawes Commission, representing the United States, but were subsequently approved by act of Congress; and

Whereas the statehood bill, commonly known as the "Hamilton bill," now pending before the Senate of the United States, after passing the House of Representatives, makes no provision for the fulfillment of this sacred pledge: Therefore, be it

Resolved by the Indian Mission Conference of the Methodist Episcopal Church South, assembled at South McAlester, Ind. T., this 31st day of October, 1904, That we do hereby respectfully invite the attention of the honorable Senate of the United States to the omission from the Hamilton bill of any provision fulfilling the said pledge of the Federal Government, and beg to represent that such omission, if not cured, would seem to constitute an act of bad faith on the part of our Government toward a helpless people; and we do hereby most earnestly memorialize the Congress of the United States to include, in whatever form of State government may be given to Indian Territory, the incorporation of an effective provision in the constitution of the new State against the manufacture, introduction, sale, barter, or giving away of liquors or intoxicants of any kind, in the borders of what is now known as Indian Territory, in manner prescribed by the law now in force, according to the terms and meaning of the sacred pledges of the Federal Government to the said Five Civilized Tribes.

E. E. HOSS, *President.*

J. A. PARKS, *Secretary.*

Mr. GALLINGER. Mr. President, the Presbyterian Church, according to the figures submitted, has expended in mission and educational work in Indian Territory sums that aggregate $2,085,470.21. In addition to a memorial to this body passed by the Indian Territory Synod of that church, assembled at Tulsa, Ind. T., in October last, having the same force and effect as those that have been read, the permanent committeee on temperance of that denomination, with headquarters at Pittsburg, Pa., have sent to Washington their representative, Rev. Charles Scanlon, to ask, in the name of a million Presbyterians, that adequate and secure provision be made for the fulfillment of treaty pledges with these Indian tribes to prohibit the sale of intoxicating liquors, or else that Indian Territory be eliminated from the statehood bill.

I will now read a memorial of the Ninth Annual Convention of the American Anti-Saloon League, convened at Columbus, Ohio, November 18, 1904, this league being a federation of all churches and religious and temperance societies, and being organized in forty States and Territories of the Union. It has about 300 national, State, and district church bodies and temperance organizations directly affiliated with it, and it is conservatively estimated to speak for upwards of 10,000,000 of our people.

Memorial to Congress for continued prohibition in Indian Territory by the ninth annual convention of the American Antisaloon League.

Whereas for seventy-two years the United States Government has prohibited the sale of intoxicating liquors in Indian Territory; and

Whereas in the agreements recently entered into with the Five Civilized Tribes looking toward the allotment of lands in severalty, one of the conditions upon which said Indians consented to the extinguishment of their tribal governments and to the admission of the white man to equal privileges of citizenship was expressly stipulated as follows: "The United States agrees to maintain strict laws * * * against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality;" and

Whereas the statehood bill, commonly known as the "Hamilton bill," now pending before the Senate of the United States, after passing the House of Representatives, makes no provision for the fulfillment of this sacred pledge: Therefore be it

Resolved by the national convention of the American Antisaloon League, assembled at Columbus, Ohio, this 18th day of November, 1904, That we do hereby respectfully invite the attention of the Senate of the United States to the said omission, and we do most earnestly urge the Congress to fulfill our solemn treaty obligation to these tribes by provision for the prohibition of the liquor traffic in the enabling act for the admission of the new States.

L. B. WILSON,
President.
S. E. NICHOLSON,
Secretary.
E. C. DINWIDDIE,
Legislative Superintendent.

I also present a resolution of the twenty-second annual meeting of the Lake Mohonk Conference of Friends of the Indian, assembled at Mohonk Lake, N. Y., October 19–21, 1904. And, Mr. President, I desire to call especial attention to this memorial. This body is composed of careful, conservative, distinguished men. The meeting which passed these resolutions was presided over by the Hon. Charles J. Bonaparte, of Baltimore. The session one year preceding this had as its president the Hon. John D. Long, ex-Secretary of the Navy. The United States Board of Indian Commissioners are prominent participants in the deliberations of these conferences, Dr. Merrill E. Gates, secretary of said commission, as well as a number of the other members of said board, being present at the meeting which adopted these resolutions. Congress has often in the past found the recommendations of this body to be a helpful guide

in legislation pertaining to Indian affairs, and I am of the opinion, Mr. President, that this utterance is worthy of more than a casual consideration. The resolutions are as follows:

Whereas the Indians of the Five Civilized Tribes of the Indian Territory made solemn agreements with the United States in the years 1897, 1898, and 1902 for the surrender of their lands to the Commission to the Five Civilized Tribes, providing that the sale, barter, or giving of intoxicating liquors to any person within the district now constituting the Indian Territory shall be forever prohibited, which agreements were fully accepted and approved by the United States; and

Whereas the said agreements constitute a permanent, unalterable condition applicable to the disposition and use of the before-mentioned lands: Therefore,

Resolved, That we call upon the Congress of the United States to duly execute the said agreements by inserting in the enabling act that may be passed, to constitute a State of the Indian Territory, either separately or in conjunction with Oklahoma, such provisions as will secure, by constitutional enactment, the permanent enforcement of the said agreements.

In addition to those which have been presented, memorials and resolutions of like tenor have been passed by various other conferences, synods, conventions, and assemblies of religious denominations and other gatherings throughout the States, for whom Senators must entertain the highest respect. Among these the following are worthy of prominent mention: The Oklahoma Conference of the Methodist Episcopal Church, assembled at Oklahoma City in the month of October of last year; the Indian Territory Synod of the Cumberland Presbyterian Church, in session at Wagoner, Ind. T., in the same month; the twenty-second annual meeting of the Indian Rights Association (Philadelphia, December 15, 1904); the National Convention of the Woman's Christian Temperance Union, sitting at Philadelphia, November 29 to December 4, 1904; the Catholic Total Abstinence Union of America, in convention at St. Louis, Mo., in August, 1904, and having an active membership of 100,000 Catholic citizens of the United States.

Now, Mr. President, when these Indian tribes removed from their former homes east of the Mississippi River to their present country, they were accompanied by the missionaries of these churches. These great churches, with their large constituency throughout the States, have invested, as has been shown, millions of dollars, not to mention hundreds of lives of devoted men and women, whose labors have done more than all other influences to lift the Indian from his former state of savagery, and have made his country habitable to the white man, as it is today. Is there a Senator on this floor who is disposed to deny this? Then, excepting only the Indian himself, are not these churches, and the people of this country who constitute them, entitled to next consideration in their recommendations as to any radical changes that may be made in the government of that Territory?

Among the many such communications from outside of Indian Territory that have come to my notice I wish to invite special attention to two from my own State, the worth and standing of the subscribers to which are well known to me.

The first is from the First Congregational Church of Keene, N. H., one of the great churches in my State, and is signed by the standing committee of the church, making an earnest appeal that prohibition shall be continued with respect to these dependent wards of the nation.

The other is from the New Hampshire Anti-Saloon League, which has as its president a distinguished ex-governor of my State, and numbers among its other officers many of the leading clergymen and other citizens of New Hampshire.

The communications are as follows:

KEENE, N. H., *December 31, 1904.*

Hon. JACOB H. GALLINGER,
Washington, D. C.

DEAR SIR: We, members of the First Congregational Church in Keene, realizing the great evil of the open saloon in our own city and State under the present "license law" passed nearly two years ago, and having learned that a bill to provide for statehood for Indian Territory is now before Congress—being in the hands of the Senate Committee on Territories—we earnestly request and strongly urge you to use your influence against the saloon, and do all that lies in your power against allowing it to ever enter into the State, should the Territory ever become one of our United States. We believe the law-abiding citizens all over our land will respect Congress for it if they insert a clause in the constitution prohibiting the saloon from the State, as it has been kept from the Territory for over seventy years.

Again urging you to stand firm for the right, knowing you will have the hearty support of the best people in our land by so doing, we remain,

Very sincerely, yours, in the interest of temperance and good government,

AUSTIN A. ELLIS,
H. E. FAY,
HUBERT O. WARDWELL,
GEO. B. VEAZIE,
WILLIAM J. SEWALL,
EUGENE D. ALDRICH,
CHARLES C. STURTEVANT,
Standing Committee of the Church.

THE NEW HAMPSHIRE ANTISALOON LEAGUE,
Concord, N. H., December 14, 1904.

Hon. JACOB H. GALLINGER,
United States Senate, Washington, D. C.

DEAR SIR: We understand that a bill is before Congress to admit Indian Territory into statehood. As the Territory under Federal prohibition has been quiet, prosperous, and orderly, we hope you will use your influence to securing, in the constitution by which it comes into the Union, a clause shutting out the saloon. It would be a calamity to admit the saloon into that Territory.

Legislation ought to look to the welfare of the people as a whole and not simply to a small and vicious class. To open that country at this time to the saloon will be legislation in favor of the liquor business. Multitudes of liquor dealers are ready to flock into the new State with their pernicious business.

The class of people in the Territory who are most alive to the well-being of the whole people would rather remain under Federal protection than have statehood with no protection from the saloon.

There may arise some question as to the constitutionality of the measure, but there must be some way of doing what ought to be done, and the saloon ought to be kept away from that people.

Praying for your most earnest effort in this righteous cause, we remain,

Yours, very truly,
For the New Hampshire Anti-Saloon League: D. H. Goodell (president), W. S. Baker, Wm. H. Sawyer, Frank A. Dame, J. H. Robbins (superintendent), George Harlow Reed, E. C. Strout, John Vannevar, headquarters committee.

THE EFFECT UPON IMMIGRATION.

There is one aspect of this question which is perhaps the largest factor in the complex problem before us. That is the effect which legislation upon this feature of the bill will have upon the character of the immigration which shall fill up this new country.

Everyone is, no doubt, ready to agree that the Indian's destiny is hereafter to be determined by the kind of neighbors he has more largely than by anything else.

Now, here is the practical situation confronting these people of Indian Territory. There is Texas on the south and Arkansas on the east which have within recent years been carrying on a successful propaganda for prohibition of the liquor traffic, as a result of which fully two-thirds of both these neighboring States have voted their saloon keepers out of business. Especially have these local-option elections been carried with great success for prohibition during the year just past. What is the result in its bearing on Indian Territory?

The result is this, that thousands of saloon keepers and gamblers and other associate criminal classes have by these elections been thrown out of their chosen employment and are eagerly looking for a new field. There is not a more fertile field on this continent, if in the world, for their business than Indian Territory will be, if they can get a foothold. There is much money to spend in Indian Territory—and much of it in the hands of a class of people that have not been trained as to how to spend it. Here is a new country, a new State to be formed, just beginning the experiment of self-government, where the opportunities for corrupting the ballot and the politics of such new State are without parallel. The question then arises, Shall the Congress of the United States so shape the legislation under which this new State government shall be formed as to make the country of these Five Tribes the dumping ground for the criminal classes that have been outlawed from other States? Let us at least give the Indian a fair chance in his first efforts at self-government!

But what will be the result of the incoming of these vicious classes? The first result will be a marked increase in the grosser crimes. Cool heads of deliberately thinking men—not temperance enthusiasts—have given out the prediction that the history of the new State, if the saloon be opened in that country as an incident of statehood, would be characterized by no less than a reign of riot for five or six years.

If this be so, what is to be the next effect of such a condition upon the character of immigration into that country? The next result will be that thousands of honest, sober, industrious people in the States who may be now contemplating going to Indian Territory to better their condition will decide, and rightfully, that it is better to rear their families in comparative poverty, but among the good associations of the old homesteads rather than incur the hazard of life and morals of their children by bringing them up amidst such lawless conditions as will prevail in this new country. And the Indian will lose the very class of neighbors which he most needs.

For seventy-two years now, while the Federal Government has been responsible for good order in that country (as it is still responsible), there has been no question either as to the wisdom or necessity of maintaining these laws against the sale of intoxicating liquors. Can the Federal Government do less for the Indian, now that it proposes to withdraw its paternal arm of protection from him and leave him to work out his own destiny—can we do less than leave him under conditions wherein the forces of law and order are at least as strong as formerly?

The demand is not to introduce a new order into this portion of our country, but simply to perpetuate what has prevailed for seventy-two years, and which the Government agreed to perpetuate as one of the conditions under which the Indian consented to the changes which make statehood possible.

If this bill can not be amended so as to guarantee the perpetuation of these wholesome laws, then is not that sufficient evidence that this is a bill that should not be passed?

WHY THE SENATE COMMITTEE AMENDMENT WOULD BE INEFFECTIVE.

The amendment of the committee provides that the constitution of the new State shall prohibit the sale of intoxicating liquors in that part of the new State heretofore known as Indian Territory for ten years after the admission of said State, and thereafter until the legislature shall otherwise provide. But a little reflection will enable us to see now as well as fourteen months from now what would be the probable effect of this amendment. Unless specified otherwise the authority of the Federal Government will expire March 4, 1906, before the legislature of the new State shall have been elected, before any statute will have been passed under the constitutional prohibitory provision or any penalties fixed for its violation. The saloon keeper would simply open up for business March 5 without fear of punishment. Moreover, the majority of the legislature coming from Oklahoma, where the saloon is already strongly intrenched, it is almost morally certain that the new legislature would be dominated by a majority unfriendly to prohibition, which majority might neglect indefinitely to provide penalties sufficient to make the law effective.

Therefore it appears that the only way to continue prohibition, in view of all these circumstances, is to continue it under Federal jurisdiction, and with this end in view I trust the amendment I have offered may be agreed to.

I have here an expression by the board of directors of the Indian Territory Church Federation, pertaining to the committee amendment relating to intoxicating liquors as follows:

INDIAN TERRITORY CHURCH FEDERATION
FOR PROHIBITION STATEHOOD,
Muscogee, Ind. T., December 29, 1904.

Resolved, By the Indian Territory Church Federation for Prohibition Statehood, through its board of directors, representing all of the several religious denominations in Indian Territory, assembled at the principal office of the federation, at Muscogee, Ind. T., this 29th day of December, 1904:

First, that we have carefully considered the Senate committee amendment to the pending statehood bill purporting to continue the prohibition of the liquor traffic in Indian Territory for ten years after the admission of the Territory to statehood with Oklahoma, and in our judgment the same as now framed would prove wholly ineffective, because there is no provision for its enforcement. Moreover, the exception for medicinal, mechanical, and scientific purposes, as specified, would become the source of endless lawlessness, and would give us a class of drug stores no better than saloons: Therefore

Resolved, Second, that it is our conviction that the one way to continue effective prohibition in Indian Territory is to continue it under Federal jurisdiction. If such procedure in connection with statehood legislation be unprecedented, it is not more unprecedented than are the conditions with which we have to deal. Solemn compacts were entered into with the Indian tribes in consideration of which they agreed to surrender their tribal governments and to admit the white man to equal privileges of citizenship in their country. One definite condition clearly stipulated in these compacts was and is that "the United States agrees to maintain strict laws against" the sale of intoxicating liquors in the territory of the Five Tribes. In view of Oklahoma Territory's probable strong majority favorable to the saloon, it seems to us that the United States Government can only fulfill in good faith this solemn pledge made to a helpless people by retaining at all costs its right and authority to give them the promised protection. Believing that Congress would not willingly be party in its last legislation for these people to giving them a delusive measure, affording no actual protection: Therefore,

Resolved, Third, that we do earnestly appeal to the Congress of the United States to so amend the pending bill as to continue the present prohibitory laws for at least twenty-one years (the period of inalienability of the Indian's homestead) under Federal jurisdiction consented to by the State in its constitution. And while we are exceedingly anxious, in common with the residents of Indian Territory generally, for statehood, with its right of self-government, as soon as possible, yet we believe that we voice the sentiments, not only of practically all the Indians (who certainly have a right to first consideration), but of a majority of the white people of the Indian Territory, in declaring that no form of statehood would be acceptable to us if founded upon the betrayal of a weak and helpless people, and the exposing of them to the blighting curse of a traffic from which they have been protected for over seventy years. Far rather would we remain in our present almost intolerable condition of political orphanage than to have forced on us a form of statehood founded upon what we could not help regarding as an act of perfidy: Therefore,

Resolved, Fourth, that we do hereby lay upon the conscience of the Christian citizenship of the States our earnest prayer that Congress be importuned not to enact a measure, in violation of the plighted faith of this Christian Government, such as will work the rapid degradation and extermination of the Indian tribes, will greatly cheapen human life in this new country, will make us the dumping ground for the saloonkeepers, gamblers, and other criminal riff-raff that have been voted out of our neighboring States, and will thus prevent us from securing the honest, industrious, sober immigration which we most need to develop the great natural resources of this country and which the Indian most needs to help him work out his destiny as an American citizen. And we do earnestly invoke the aid of the religious and secular press of the land, and all other defenders of the national honor, to give immediate publicity to these facts and to use their utmost influence in behalf of our righteous cause.

A. S. MCKENNON, *President.*
E. M. SWEET, JR., *Secretary.*

BILL ALREADY PROVIDES FOR FEDERAL CONTROL.

Mr. President, when it is insisted that some adequate provision in harmony with our undoubted obligation to the Indians should be inserted in the bill, the objection is made that it is unprecedented and unusual for the Federal Government to impose such conditions upon a prospective State. It is sufficient justification to say that the entire Indian Territory situation is unusual and absolutely unprecedented, as are the conditions which it is my purpose to safeguard.

But I submit that the amendment I have offered does not go one step farther in the direction of Federal control within the bounds of the proposed State than the bill already does without my amendment. I only propose that specific legislation be enacted upon the question of intoxicating liquors, for which ample general authority is contemplated in the proviso contained in section 1 of the bill, which reads as follows, beginning in line 7, page 1:

Provided, That nothing contained in the said constitution shall be construed * * * to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other *rights by treaties, agreement*, law, or otherwise, which it would have been competent to make if this act had never passed.

Now, if it be objected that my amendment is unusual, unprecedented, or unconstitutional, I submit that it is no more so than this proviso of section 1 of the bill; and this section has received the approval of the eminent lawyers both in the House of Representatives and upon the Senate Committee on Territories. Under this provision it would manifestly be competent for the Secretary of the Interior to prohibit the sale of intoxicating liquors by the promulgation of a "regulation" against the same, for the reason that such prohibition is clearly one of the "rights by treaties" or "agreement" which inheres in these Indians; but inasmuch as this matter of prohibiting the sale of intoxicating liquors is fraught with so many difficulties in administration, Senators will no doubt agree with me that it is better to have a clearly defined policy from the outset in regard thereto. And my amendment only seeks to secure definite and immediate legislation under the general reservation of Federal authority as expressed in the provision to section 1 of the bill.

Mr. President, there can be no doubt that Congress has power to prescribe the terms upon which new States are to be admitted into the Union, the only possible limitations being that such provisions violate no part of the Federal Constitution and the discretion of the Congress itself. Under the first paragraph of the third section of Article IV of the Constitution ample authority has been found, not only for the admission of new States, but for the determination of terms upon which they may be admitted. It seems to me that there is no clause or article in the Constitution which such a provision in the organic law of the new State would infringe. If there is, the eminent lawyers of the Senate will point it out.

Section 2 of Article IV (first paragraph) reads:

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

By its obvious language, as well as by the clearest Supreme Court decisions, this can have no bearing on the proposed amendment.

Besides, a Supreme Court decision, as well as a decision of the United States circuit court of appeals, bear directly on the matter, and effectually preclude any suspicion that my amendment runs counter to the provisions of the Federal Constitution. In Crowley *v.* Christensen (137 U. S., 86) the court said:

The right to sell intoxicating liquor, so far as such a right exists, is not one of the rights growing out of citizenship of the United States. There is no inherent right in a citizen to sell intoxicating liquors by retail; it is not a privilege of a citizen of a State or a citizen of the United States.

In the case of Farrel *v.* United States (49 C. C. A., 191, Sept. 30, 1901), under an indictment for the sale of liquor to a Sioux Indian, under the act of January 30, 1897, the court said:

It is contended that the retention of this control is inconsistent with the grant to them, in the act of 1887, of all the rights, privileges, and immunities of citizenship within the meaning of the Constitution of the United States. But the privilege of buying whisky at all times and in all places is not one of the rights, privileges, or immunities of citizenship within the meaning of the Constitution of the United States. If it were, all the prohibitory laws of the States would be void, for the fourteenth amendment to the Constitution provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States," and yet many States have enacted laws, that no one would claim were unconstitutional, which prohibit the sale of intoxicating liquors, except for medicinal purposes, to all the citizens of the United States residing in

their State. The truth is that the deprivation of these Indians of the right to buy intoxicating liquors is not the taking away from them of any privilege or immunity of citizenship, but it is an attempt to confer upon them an additional immunity which some citizens do not possess—an immunity from drunkenness and its pernicious consequences.

But I desire to call attention to the fact that this whole principle, involving the right of the Federal Government to prohibit the sale of intoxicating liquors to Indians whose lands have been allotted and who have been declared citizens, is now pending before the Supreme Court, having been argued but recently—on the 9th instant—in the matter of the application of Albert Heff for a writ of habeas corpus, the applicant having been convicted of selling liquor to a Kickapoo Indian in Kansas, and sentenced to four months' imprisonment and a fine of $200 and costs. If the decision of the court should be adverse, it would then become a principle of law, as it is now admittedly the only effective principle of practice, that the only way to prevent the sale of liquor to Indians is to prevent its sale in their country.

One paragraph of the Government's brief in that case sets forth so clearly the attitude of the Government in the statute which is therein defended, and at the same time sets forth so well the animus of the amendment which I have offered, that I desire to read it in this connection. It is as follows:

> From the power granted to Congress to regulate commerce with the Indian tribes has been developed the theory as to the guardianship of the United States over them, not only collectively, but individually. The ultimate object of the paternal care exercised by the General Government has been, as is well known, to fit the Indians for the duties and responsibilities of citizenship. In the attainment of that object it will eventually become necessary to dissolve their tribal relations. At that particular period in their development the care and protection of the General Government will be most essential to their welfare. It can not be that they will be deprived of its sustaining arm in the hour of their greatest need.

I take it that the right of a State to license, tax, or otherwise regulate or entirely prohibit the traffic in intoxicating liquors within its borders is not open to question after numerous decisions of the Supreme Court to that effect. It is readily conceded that a proposition for prohibition in only part of the Territory of the new State is peculiar, but again I call attention to the fact that our whole Indian Territory situation has been and is peculiar and absolutely without parallel in our history. If this amendment, requiring constitutional prohibition for that part of the new State which is now Indian Territory, contravenes no specific section or article of the Federal Constitution, it follows that it can not and will not be overruled simply because it is unusual or without precedent.

In making their organic law in the new State the people have plenary power to adopt prohibition for the whole State or for any part of it, and the United States Supreme Court within the past two years has rendered several important decisions directly reaffirming the power of a State to exercise the largest discretion in dealing with this subject within its own bounds. (Vide Rippey *v.* Texas, 193 U. S., pp. 445–450, and Lloyd *v.* Dollison, 194 U. S., pp. 504–509.)

It is believed by eminent lawyers that the provision in this amendment giving to the United States exclusive jurisdiction over the subject of intoxicating liquors is entirely proper, and encounters no constitutional barrier in view of the express consent of the State being given. The amendment does not call for as much as might reasonably be asked in view of our treaty promises to these Indian tribes, or as much as they and the people of the Territory could justly demand. There is ample justification for the exercise of permanent Federal authority over the subject-matter in Indian Territory and these reservations in order that we may be able to keep faith with these people and not wantonly break our national compacts with them.

In the first place, it would be reasonable and right—and only according to the express terms we made with them—to demand that before we pass a statehood bill, or, at any rate, before a new State shall be admitted into the Union, the Indians give their consent to the formation of such State, as we positively agreed they should do. The present opposition, while it may not be confined to the fear concerning the introduction of intoxicating liquors into their country, is nevertheless largely inspired by fear that with statehood will come the introduction of liquors and the saloon and all the evils that inevitably follow in their train. If these people are to be forced into statehood against their wishes and without proper regard for our solemn compact with them, then the very least we can do is to adopt the amendment I have offered, which will continue the present régime for twenty-one years, a period coextensive with the time during which we do not permit them to alienate their homesteads, and require the State to place a provision in its constitution in harmony with our duty, which should remain the law of the State until they by due process of amendment should change it, as they would have power to do in the regular way.

It has been suggested that the adoption of the amendment which is proposed will be a species of paternalism, and that it is not fair to the new State for Congress to insist upon determining its internal policy on the liquor question. There would be force in this suggestion if the amendment applied to all the territory of the proposed new State; but we are far more justified in insisting upon the State's adoption of a policy which will harmonize with the solemn treaty obligations of this Government than the people of that State are justified in demanding admission as a State at the sacrifice of our national honor and without regard to the wishes of the people of the Indian Territory, whom they will outvote both in the constitutional convention and in the proposed State legislature, even as the bill has been amended by the very wise and proper action of the Senate Committee on Territories in relation to representation in these bodies. The people of the United States, through Congress, made solemn contracts with these Indian tribes under which they agreed to give up certain valuable rights—they undeniably gave a quid pro quo for what we agreed to do for them—and now the proposition is made here that simply because we have the power we should disregard our part of the contract and make these people and their neighbor settlers subject to the unquestionable demoralization of a traffic which has been wisely excluded from the limits of their territory for three-quarters of a century and which is being increasingly driven from the territory of the other States.

I am ready to defend the proposition that the United States should not make a contract which it does not intend to fulfill nor one that it has not the power to fulfill. In this case it seems to me that it has the power. The question is simply, Will it allow the individual theories of government, which are honestly entertained by men upon both sides of the Chamber, to prevent the discharge of national duty to dependent peoples?

INDIAN TERRITORY WITHOUT REPRESENTATION.

Mr. President, there are many complexities about the situation as regards Indian Territory. Everyone will admit that. And yet, in the discussion upon this floor comparatively little has been said about Indian Territory. True, one Senator did devote a very earnest paragraph in his remarks one day last week to the expression of his sympathy for the 500,000 or 600,000 white people living in that Territory; but usually when it has been mentioned it has been rather in this strain: "I have no particular objection, etc., as regards Indian Territory."

Now, may not this trend of events be accounted for by this fact: Arizona has her Delegate in Congress [Mr. WILSON] to look after her interests; New Mexico has her Delegate in Congress [Mr. RODEY]; Oklahoma has her Delegate [Mr. MCGUIRE]? The interests of these three Territories, I dare say, have been faithfully guarded. Indian Territory is without representation. Are we not, Mr. President, from this very fact, in great danger of doing, perhaps unconsciously, grave injustice to these people, both Indian and white?

Was it ever contemplated by the Constitution—is it in keeping with the genius of this Government—that out of virgin soil we should create a sovereign State without its having first gone through a probationary period of Territorial government? It is not my purpose, however, to go further into this question, only to say this: That it does not seem expedient, to say the least, to create a new State over a section of country containing, say, 500,000 population, nearly 100,000 of whom have never before exercised the right of suffrage, and in the same breath with such creation throw them into the vortex of this most extremely vexed question of self-government—namely, to determine whether or not intoxicating liquors shall or shall not be sold therein—with practically no election laws, and with the widest opportunity for the corruption of this untried ballot. Mr. President, if we create this new State without the intervention of the probationary period of Territorial government wherein there would be at least a partial exercise of the franchise, and at the same time a partial Federal control—if we do this, it seems incumbent upon us to give such a new State at least a start upon its career under such conditions that men who want to do right shall have more power than men who want to do wrong.

But I must say that the impression which has become somewhat current here of late, that the people of Indian Territory are clamoring for statehood at once without regard to any other conditions, and that the amendment which I have offered is distasteful to them because of the possibility that it might delay action on the statehood bill, is not consistent with reliable information that has come into my hands. I send to the desk a number of telegrams and letters that I have received within the last few days, which seem to bear me out in this statement, and I ask that they be read.

Mr. PLATT of Connecticut. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Connecticut?

Mr. GALLINGER. Certainly.

Mr. PLATT of Connecticut. I understood the Senator from New Hampshire to say that he did not recollect we had ever admitted a State without its having gone through the probationary period as a Territory.

Mr. GALLINGER. No; I did not quite say that. I used rather qualified language, because I thought we had done so.

Mr. PLATT of Connecticut. The Senator must be aware, I think, upon reflection, that California was admitted without any previous Territorial experience, and Nevada and Texas.

Mr. STEWART. Nevada was not. Nevada was a Territory.

Mr. PLATT of Connecticut. Texas had not been a Territory of the United States.

Mr. GALLINGER. I was laboring under the impression that California and Nevada had not been Territories of the United States, but it seems it was California and Texas. But however that may be, what I meant to suggest was that it is not in keeping with the spirit of our institutions to make States out of virgin soil, the theory being that we shall first have Territorial government, and in that way the people shall be somewhat fitted for the duties of citizenship when the Territory becomes a State. That is what I meant to say.

Mr. TELLER. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Colorado?

Mr. GALLINGER. Certainly.

Mr. TELLER. I only wanted to call the attention of the Senator from Connecticut to the fact that Texas was an organized community with a governor of its own for years before she became a State in the Union.

Mr. PLATT of Connecticut. That is very true.

Mr. TELLER. Texas had a congress of her own, and conducted a government, and even conducted a war.

Mr. PLATT of Connecticut. There is no question about that. California, I think, however, was not organized prior to its admission as a State.

Mr. TELLER. California, it is true, came in in a different condition from any other State, but there was a very great population there, and they had organized themselves into communities, as they did in Colorado, for years before the Government admitted California into the Union.

Mr. STEWART. California organized a State government and the first legislature was held. They had a constitution and a legislature and passed laws before California was admitted.

Mr. TELLER. I recollect, if I am not mistaken, that they elected a Senator, too, before the State was admitted.

Mr. STEWART. A Senator came here and asked for admission.

Mr. TELLER. Yes; so they had an organization. Now, if I may be allowed to interrupt the Senator from New Hampshire just a moment further——

Mr. GALLINGER. Certainly.

Mr. TELLER. Colorado was admitted in 1876; but before we had a Territorial organization, which took effect and was operative in 1861, we had an organized government of the people in different sections, perhaps representing what you would now call "county governments," but there was a government there. Then we had a Territorial government, and then we came in as a State.

Mr. GALLINGER. Mr. President, I am very glad the Senator from Connecticut raised the question. I was laboring under the impression, from imperfect knowledge, that certain sections of the country had been made into States without the intervention of Territorial governments. It seems that such was the fact technically, but that, as a matter of fact, there is not a precedent for admitting a Territory, such as the Indian Territory, where the people have not in any sense been trained in the duties of citizenship such as white people recognize and enjoy, and have had no knowledge whatever of matters of legislation.

So I think, in the broad sense, my suggestion that the theory of the Government, the intent of the Government, has been to first have Territorial government and then State government.

Mr. SPOONER. Will the Senator allow me to ask him a question?

Mr. GALLINGER. With pleasure.

Mr. SPOONER. If a community occupying a given territory is not fit, by reason of want of governmental training, to come into the Union on an equality with the other States, is it fit to come in at all?

Mr. GALLINGER. I think I will answer that, as probably the Senator expects me, by saying that I think they are not fit to come in.

Mr. SPOONER. I listened with a good deal of interest to the Senator. He says that Congress may prescribe such conditions as it chooses as to the admission of States. However, I do not want to interrupt the Senator, if it is not perfectly agreeable to him.

Mr. GALLINGER. I will be glad to have the Senator interrupt me, because I want instruction in this matter.

Mr. SPOONER. I am not competent to instruct the Senator, but I want to ask him a question.

Of course there are some conditions growing out of the peculiar circumstances, the title of property among other things, in certain communities which might be taken note of in admitting a Territory into the Union. But Congress is empowered to admit new States into the Union. My notion has always been, although I think some of the earlier and settled doctrines have fallen into——

Mr. GALLINGER. Innocuous desuetude.

Mr. SPOONER. No; not innocuous desuetude. That means harmless desuetude. I think, perhaps, it will be better to say "harmful desuetude."

I have thought that the whole theory of this Union under the Constitution is that no one State, so far as police power is concerned, shall be unequal in State sovereignty to any other State. I have never thought it rested with Congress to admit a State into the Union upon condition that one-half of its police power should be reserved to Congress.

Mr. GALLINGER. Will the Senator read the proviso to section 1 of the pending bill as it came from the House of Representatives and as it appears in the report of the committee, and then give an opinion as to what power that provision gives to Congress in reference to a portion of this proposed new State?

Mr. SPOONER. Yes; I will read it.

Provided, That nothing contained in the said constitution shall be construed to limit or impair the rights of person or property pertaining to the Indians of said Territories (so long as such right shall remain unextinguished)—

It would not be necessary to safeguard them after they were extinguished—

or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property, or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this act had never passed.

My notion has been that so long as the Indian in the State is a ward of the Government, so long as the tribal relation continues, the Federal Government has the same power in the State that it would have in the Territory to regulate the affairs of the Indians.

After the tribal relation has ceased, after the Indian has received under the general law of the United States an allotment, after he has been declared by Congress to be a citizen of the United States, thereby becoming under the constitutions of the States a citizen of the State, I have very greatly doubted the power of Congress to treat him still as a ward and to deprive him of rights which other citizens of the State are entitled to enjoy.

Mr. GALLINGER. Does not that——

Mr. SPOONER. Let me illustrate.

Mr. GALLINGER. Certainly.

Mr. SPOONER. The constitution of the State of Wisconsin and the constitutions of many of the States guarantee to the citizen of the State a right to trial by a jury of the vicinage in which the offense was committed. There may be decisions the other way, but I think they are wrong. I have thought that after an Indian residing in Wisconsin has ceased all tribal relation, after he has become a citizen of the United States and a citizen of the State, he would be entitled, if he committed an offense in the county of Ashland, in my State, to a trial before a jury of the county of Ashland, and he could not, without a violation of the State constitution, be taken from the county in which the offense was committed for trial in a district court of the United States. I may be wrong about that, but as an original proposition I think I am right about it.

But this is the point I want to get at. If Congress in admitting a State has a right to reserve a police power over one subject, given to all the other States, admitted to be a part of the State sovereignty as contradistinguished from Federal sovereignty, where is the limit, I ask the Senator from New Hampshire? If Congress may reserve the right to legislate as to one subject which in all the other States is a matter purely of State cognizance, why may Congress not reserve the right to legislate for the State as to burglary, as to murder, as to adultery, and other offenses?

Mr. PLATT of Connecticut. As to bigamy.

Mr. SPOONER. As to bigamy.

Mr. PLATT of Connecticut. Or polygamy.

Mr. SPOONER. Or as to polygamy. The trouble, so far as polygamy in Utah is concerned, is that Utah ought not to have been admitted as a State, in my opinion, but when Utah was admitted as a State she came into the Union as a State on an equality with the other States, and Congress has no more power, I think, to deal with the question of polygamy in a State than it has to deal with the question of burglary in a State.

Now, I did not mean to interrupt the Senator, but I want him to show, if he will, how he distinguishes the power of Congress to reserve the right to legislate in the State as to the manufacture and sale of intoxicating liquors from the power of Congress to legislate in the State as to other matters of purely State police cognizance. That is what has troubled me.

Mr. GALLINGER. Before I try to answer that question—and it is very difficult for me to answer a legal proposition submitted by the Senator from Wisconsin—I should like to have him elucidate a little the proviso in the first section of the bill.

Mr. SPOONER. I am under no such contract.

Mr. GALLINGER. Well, I want to put the Senator under that contract.

Mr. SPOONER That does not follow.

Mr. GALLINGER. I want to ask if that does not give precisely what the Senator says we can not give?

Mr. SPOONER. The Senator from Nevada insists that there are decisions, and I think there are——

Mr. GALLINGER. I think I have quoted one or two.

Mr. SPOONER. I know there are, which as to the Indians will sustain probably the greater part, perhaps not all, of this provision. But that grows out of the unique relation of the Indians to the Government.

Mr. GALLINGER. That is what I called attention to when the Senator was absent, that this is an unprecedented case, that it is very unusual.

Mr. SPOONER. Yes; but it must be remembered that the Indians under tribal relation in States are still subject to the Federal Government, and that limitations upon the real property of Indians, placed by Congress or under its authority upon the right to dispose of real property of Indians, can not be abrogated by the States. It seems to me there are elements in the provisions to which the Senator calls attention which go beyond that, and I doubt their constitutionality as to Indians who have become citizens of the United States.

Mr. PLATT of Connecticut. Mr. President——

Mr. GALLINGER. It is required by this bill to be put into the constitution of the new State.

Mr. PLATT of Connecticut. With the permission of the Senator from New Hampshire——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Connecticut?

Mr. GALLINGER. Certainly, Mr. President. Of course I am very unequal in a match against these great lawyers.

Mr. SPOONER. Oh, no. Now, if the Senator will pardon me for a moment, this is required to be put into the constitution of the State. Of course after the State is admitted into the Union there is no power to prevent the people of the State from taking it out of their constitution.

Mr. GALLINGER. Certainly; that is admitted.

Mr. SPOONER. However, as to this other phase, the one involving the police power, it is not provided that they shall put it in their constitution, but it is provided that by an irrevocable ordinance appended to their constitution or a part of it, they shall make it perpetual and beyond the reach of the people of the State to control the police power of the State. Now I will hear the Senator from Connecticut.

Mr. PLATT of Connecticut. Mr. President, I do not wish to further complicate this already complicated question, because I am in entire sympathy with the legislation which would give to the Indians in the Indian Territory protection against the sale of intoxicating liquors.

Mr. SPOONER. So am I.

Mr. PLATT of Connecticut. But there is one thing which has not been noticed, unless it was noticed by the Senator from New Hampshire when I was out of the Chamber for a few moments. We passed within the last four or five years what I considered at the time to be very improper legislation, making all the Indians of the Indian Territory citizens of the United States.

Mr. SPOONER. That was a mistake.

Mr. PLATT of Connecticut. I think it was a mistake. I thought so then, and I tried as I could in committee to prevent it. But does not that complicate the situation in regard to the passing of laws which shall apply to some of the citizens of the new State and not apply to other citizens of the new State?

Mr. STEWART. I am going to speak to that point whenever I get an opportunity. I do not like to interject it into the speech of the Senator from New Hampshire.

Mr. SPOONER. I beg the pardon of the Senator from New Hampshire.

Mr. GALLINGER. Not at all. I am delighted to have the Senator from Wisconsin and the Senator from Connecticut discuss this phase of the question, which is extremely interesting, and which I as a layman can very clearly perceive is full of difficulties.

I have endeavored to show, in my own way, that this is a very unusual condition of things, and that because of that fact we may be warranted in legislating differently from which we would under different conditions.

By and large I answer the Senator from Wisconsin precisely as he would expect me to answer his question. Congress can not ordinarily do what the Senator recited. But in considering this question I read the bill of the committee very carefully. It ran the gantlet of the other House, where there are great lawyers as well as here. I read that proviso in the first section. which to my mind—not legal mind, perhaps my untutored mind—led me to the conclusion that the bill itself conferred upon Congress absolute authority to legislate for the Indians after the new State is formed. I consulted some eminent lawyers about the matter, not a great many, but friends of mine, and they agreed with me that that was the fact. They agreed with me, furthermore, that my amendment, if it should be incorporated in the bill, would stand the constitutional test. I do not know whether it would or not.

I am not prepared, of course, to give an opinion on that point, and I am not prepared to give an opinion on any legal or constitutional point.

Hoping that that was true, influenced as I was by the opinion of men versed in the law, one certainly a very distinguished jurist, I ventured to offer the amendment and I have had the temerity to advocate it. I do it in the hope that out of it all may come something which will be of benefit to these people. I was very much struck with that exclamation of the Indian chief which I read to-day—that he does not believe the Government is going to lie to the Indians on their deathbed. I was struck with it, and I felt that if I could make any contribution to this discussion which would help the Senate in wisely determining this question I would have perhaps done the Indians, if no one else, a service.

It was simply with that end in view that I have with a great deal of reluctance said one word on this question. I had intended to remain silent and to vote on the question as to the creation of these proposed new States as my conscience dictated when the vote was reached.

Mr. President, I will now call attention to the fact that when I was interrupted I had sent to the desk, and I will ask the Secretary to read, the telegrams which have come to me during the last two or three days from the Indian Territory on this question. They are not long.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

FORT GIBSON, IND. T., *January 16, 1905.*

Hon. JACOB H. GALLINGER,
United States Senate, Washington, D. C.:

Our churches voted unanimously no statehood without prohibition.

N. E. FERTIG, *Pastor Methodist.*
T. F. COE, *Pastor Baptist.*
D. N. ALLEN, *Pastor Presbyterian.*

DURANT, IND. T., *January 16, 1905.*

Senator JACOB H. GALLINGER,
Washington, D. C.:

Durant's six churches indorse Gallinger amendment. Want prohibition statehood only.

A. FRANK ROSS.

ATOKA, IND. T., *January 15.*

Senator JACOB H. GALLINGER:

We want statehood without saloon or no statehood.

ATOKA BAPTIST CHURCH.

TULSA, IND. T., *January 16, 1905.*

Senator JACOB H. GALLINGER,
Washington, D. C.:

By a large majority vote in churches here yesterday, passed following resolution:

"*Resolved*, That we protest against statehood unless your amendment is passed."

C. S. WALKER,
Secretary Church Federation.

MUSCOGEE, IND. T., *January 16.*

Senator JACOB H. GALLINGER,
Washington, D. C.:

We prefer present Territorial government to statehood with the saloon.

MARTIN W. ROBISON,
Secretary Muscogee Ministers' Association.

Mr. GALLINGER. I have here letters which I shall not read, but will simply give the names—a letter from Muscogee, which is signed by nine clergymen, representing different churches, begging, if statehood is granted as proposed to the Territory, that Congress will not subject the Indians to the baleful influences of strong drink; a letter likewise from the pastor of the Presbyterian Church at Krebs, Ind. T., and one from the pastor of another church in the same town. The Atoka Baptist Church sends resolutions, and the letter of transmittal is signed by certain officials of the church. From Tulsa, Ind. T., the secretary of the Church Federation makes a protest.

The letters referred to are as follows:

MUSCOGEE, IND. T., *January 16, 1905.*

Hon. JACOB H. GALLINGER,
Washington, D. C.

DEAR SIR: We, the ministers whose names will appear below, beg to advise you that we have had action taken and have received in the constitutional manner from our churches an answer to the question whether, as churches, we would prefer to see the saloon and statehood or remain under the present form of government as a Territory. Without exception (one church not heard from), the answer has been: "Give us no statehood rather than statehood, single or double, and the saloon. We think the advantages of statehood would be far less than [the] curse of the saloon.

We beg you to do all in your power to give us no statehood for the Indian Territory or let us have statehood with adequate prohibition.

Mr. E. M. Sweet, who is from us, has no doubt seen you and we [feel] sure will handle the cause for us well. We can trust and recommend his judgment to you in our behalf.

Most respectfully,

Rev. Grant Stroh, Rev. T. F. Brewer, Rev. T. L. Lallance, Rev. J. K. Thompson, Rev. T. C. Carlton, Rev. J. H. Crutcher, Rev. R. E. Robe, Rev. Martin W. Robison, Rev. A. Grant Evans.

KREBS, IND. T., *January 16, 1905.*

Hon. JACOB H. GALLINGER,
Washington, D. C.

DEAR SIR: Having learned that you have introduced a bill in the Senate, or rather an amendment favoring prohibition for twenty years—in view of this on last Sabbath we passed a resolution in the Presbyterian Church of this place, saying we would far rather remain as we are than have a form of statehood thrust upon us that would bring with it Oklahoma's saloons. And the same resolution was passed in the Methodist Episcopal Church.

The vote was unanimous.

Yours, with due respect,

G. W. MCWHARTER, *Pastor.*

KREBS, IND. T., *January 17, 1905.*

JACOB H. GALLINGER, *Washington.*

DEAR SIR: We took a vote in our congregation Sunday, as did the Presbyterian. It was a unanimous vote in favor of leaving Indian Territory as it is for a while, without saloons.

Yours, truly,

O. A. WRIGHT.

MURROW INDIAN ORPHANS' HOME,
Atoka, Ind. T., January 15, 1905.

Senator JACOB H. GALLINGER,
Washington, D. C.

DEAR SIR: At the morning service of the Atoka Baptist Church a resolution was passed urging upon our friends the necessity of securing for the new State adequate protection from intoxicating drinks. We greatly desire no statehood rather than statehood with the curse of saloons.

Passed unanimously.

J. S. MURROW,
HUBERT M. RISHEL,
WILLIEBELLE JONES,
Committee.

TULSA, IND. T., *January 16, 1904.*

Hon. JACOB GALLINGER,
Washington, D. C.

DEAR SIR: I sent you a telegram this morning notifying you of the action the different churches took here yesterday on the saloon question.

The people of this city prefer to remain without statehood rather than to come in as a State and have saloons thrust upon us. The matter was brought up before all the churches of the city, and the vote was practically unanimous to the effect that they wanted your amendment to the Hamilton bill, or remain as we are. We feel that it would be unbearable here with saloons in the Territory. I trust you will be successful in getting your amendment through if the statehood bill passes.

Wishing you every success, I beg to remain,

Very truly,

C. S. WALKER,
Secretary of Church Federation.

Mr. GALLINGER. The following letter has impressed me deeply. Surely the views and wishes of such men are entitled to great consideration:

SASAKWA, IND. T., *January 24, 1905.*

Hon. J. H. GALLINGER,
United States Senator, Washington, D. C.

DEAR SIR: My great solicitude for the welfare of the Seminole people, for whom I have labored earnestly and faithfully for more than a generation, sixteen years of which time as their principal chief, impels me to make bold in addressing you on their behalf.

The Seminoles, with only a few exceptions, are full-blood Indians and, at best, will be at great disadvantage when so shortly their tribal government shall be extinguished. Then that paternal care so long exercised over them by the United States Government will be withdrawn, their chiefs and head men, to whom they have looked and upon whom they have relied for counsel and guidance, will be no more, and they must take their places as United States citizens. Uneducated, not even fairly able to speak the English language, the burdens and responsibilities thus suddenly thrust upon them are so grave that one must, and I do, feel great apprehension for their future, even at best.

But when I think of even the possibility of their coming in contact with the liquor traffic, the open saloon, so long kept beyond their reach by wholesome and effective laws enacted against this loathsome and degrading traffic by both the Seminole government and the United States, I am dumb at the horrible and piteous spectacle which our eyes shall surely behold, and can not but tremble when I think of the dreadful fate which surely awaits the large number of our citizens who have no control over themselves in this particular. One addicted to the use of intoxicating drinks is incapacitated to care for his family or estate, and ought to have a guardian appointed to manage his affairs. The Indian has had two guardians, his own home government and the United States, even when he was sober and whisky kept quite beyond his reach. Now, these two protectors are to be taken away, but the Indian ought not to be exposed to this great and impending danger. If it be so, pen and tongue become paralyzed in an effort to describe the pandemonium which will reign supreme in the Indian country. The Indian of to-day can not stand alone with whisky along by his side. No word is surer; no prophecy ever truer.

So, I beg of you in the name of all that is pure, in the name of humanity, to spare no effort to draw a line of prohibition around this helpless people, to protect them and their little ones from the withering blasts of this demon who is already impatient at delay. And I know that God will certainly bless you and all like you, who will thus come to the rescue. And for this I shall pray, and beg to be,

Yours, very truly,

JOHN F. BROWN.

Here is a letter from Frederick, Md., from the permanent committee on temperance of the General Synod of the Evangelical Lutheran Church in the United States, which I will read:

FREDERICK, MD., *January 16, 1905.*

Hon. J. H. GALLINGER,
United States Senate, Washington, D. C.

MY DEAR SIR: I write you on behalf of the permanent committee on temperance of the Evangelical Lutheran Church in the United States (general synod). This committee was formed five years ago for the purpose of representing the denomination in temperance matters and to cooperate with similar committees or societies of other churches in furthering the temperance reform in harmony with the deliverances of our general synod in its conventions.

The denomination for which we speak has twenty-five district synods throughout the country and forms one of the branches of the Lutheran communion, and in itself represents about 225,000 communicant members and a total constituency in its churches and Sunday schools of not less than 400,000 people.

We are very greatly interested in securing adequate protection against saloons for Indian Territory in case it is to be admitted, either singly or conjointly with Oklahoma, as a State, and I write to say that we earnestly hope for the passage of your amendment to the statehood bill introduced on January 9, providing for a prohibition clause in the State constitution and continuing Federal jurisdiction for a period of years until the people of the new State may be fairly able to handle this important question themselves. We shall be very glad if you will bring this prayer to the attention of the Senate for its consideration during the pendency of the so-called "Hamilton bill."

Very sincerely, yours,

CHAS. F. STECK, *Secretary.*

I have here another letter from the Board of Home Missions of the Presbyterian Church in the United States of America, which I will also read:

NEW YORK, *January 21, 1905.*

To the UNITED STATES SENATE,
(Care of Senator J. H. GALLINGER),
Washington, D. C.

SIRS: On behalf of the Board of Home Missions of the Presbyterian Church, I desire to respectfully petition your honorable body to postpone the question of statehood for Oklahoma and Indian Territories until the next Congress in order that such an amendment as proposed by Senator GALLINGER, extending prohibition for twenty-one years, may be passed, if possible, in both Houses, and so be safe from the peril of being killed in conference committee.

This is a wise man; he knows how things sometimes happen in Congress.

I beg to say that this would not necessarily postpone the date of statehood going into effect, which I believe would not be under the present bill if now passed before the spring of 1906.

It is perhaps needless for me to add that we urge this postponement only that the moral interests of the Indians, among whom we have a good deal of missionary work, may be safeguarded.

Very respectfully, yours,

CHAS. L. THOMPSON, *Secretary.*

Several telegrams have come to me within the last few days, asking postponement of action upon this bill so far as it relates to Indian Territory, as follows:

NEW YORK, *January 21, 1905.*

Senator J. H. GALLINGER,
United States Senate, Washington, D. C.:

Secretaries of Congregational Home Missionary Society and American Missionary Association concur in petition of Presbyterian board, that action on Indian Territory statehood be postponed until next Congress.

WASHINGTON CHOATE.

NEW YORK, *January 21, 1905.*

UNITED STATES SENATE (care Senator J. H. GALLINGER),
Washington, D. C.

Undersigned secretary of Methodist Episcopal Missionary Society urges postponement of action on Indian Territory statehood.

S. O. BENTON.

NEW YORK, *January 21, 1905.*

Hon. J. H. GALLINGER,
Senate, Washington, D. C.

The American Baptist Home Mission Society concurs with other organizations in postponement of action on Indian Territory statehood bill.

H. L. MOREHOUSE, *Secretary.*

I have also, Mr. President, a communication signed by Joshua L. Bailey, a well-known philanthropist of Philadelphia, which I will read:

WASHINGTON, D. C., *January 25, 1905.*

Hon. JACOB H. GALLINGER,
United States Senate, Washington, D. C.

MY DEAR SENATOR: At a conference held this morning of the accredited representatives of several national organizations, viz, the National Temperance Society, the National Woman's Christian Temperance Union, the International Reform Bureau, the Indian Rights Association, and the Indian Territory Woman's Christian Temperance Union, the following was unanimously adopted: *Resolved*, That in view of the fact that the amendment proposed by you to the statehood bill, providing for twenty-one years' extension of the prohibition of the liquor traffic in what is now the Indian Territorial limits, was not a part of the bill as it passed the House of Representatives, and in view of the probability that even should it pass the Senate it might fail in conference committee, it is the sense of this conference that the best interests of all concerned would be promoted by the postponement of the further consideration of this statehood bill to the next session of Congress.

On behalf of the conference:

JOSHUA L. BAILEY, *Chairman.*
(Representing the National Temperance Society.)

On yesterday I was handed a communication which expresses the views of the United States Board of Indian Commissioners, as follows:

DEPARTMENT OF THE INTERIOR,
BOARD OF INDIAN COMMISSIONERS,
Washington, D. C., January 25, 1905.

Senator GALLINGER,
United States Senate.

SIR: The United States Board of Indian Commissioners, now in session at their annual meeting, have considered the amendment intended to be proposed by you to H. R. 14749 and on January 9, 1905, ordered printed. The following action was to-day unanimously taken by the United States Board of Indian Commissioners, and is herewith transmitted to you, with entire freedom to make any use of it which you may wish, either in your remarks in support of your amendment or at any other time or under any other circumstances:

"*Voted*, That the United States Board of Indian Commissioners emphatically approves the amendment to H. R. 14749 proposed by Senator GALLINGER and ordered printed January 9, 1905, to carry out the treaty obligations of the United States in protecting the Indians of the Territory against the sale of liquor and the evils of the open saloon."

A true copy.

Yours, very truly, MERRILL E. GATES,
Member and Secretary.

Mr. President, I have but an added word. Reverting again to the question of what was meant by our agreements with these tribes, I will read a clipping taken from the editorial columns of the Washington Post of December 18, 1904, which indicates the interpretation put upon these agreements by at least two of the leading newspapers of this country. The Post quotes from the Springfield Republican as follows:

The statehood bill for Oklahoma and Indian Territory has been somewhat improved, probably, by the insertion of a clause providing for prohibition during the first ten years. After that period the question will be left to the inhabitants to determine as they may desire. The only reason for prohibiting the liquor traffic in the enabling act is to protect the Indians of the Five Civilized Tribes, who were guaranteed such protection by the United States Government when they abandoned their old tribal life.

The Post makes this comment:

No one can seriously question the desirability of protecting those Five Civilized Tribes, and all other tribes of Indians, against the traffic in intoxicants. And no one will deny that the pledge of protection made to those five tribes by the United States Government ought to be sacredly kept. The humiliating truth that the history of our Government's dealing with the red men shows a long succession of violated treaties—violated by the United States—is not the best kind of reason for adding to that sad, bad list. As to most, if not all, of those disrupted compacts, it may well be said that they should not have been entered into, but that can not be said of this promise of protection against the Indians' worst enemy. It was a proper promise—a promise prompted by imperative duty.

But, nevertheless, no provision of an enabling act, no command of Congress, or concession by a Territory put into an enabling act or into the constitution of an embryo State, can deprive a State, when fully admitted into the family of States, of equal rights with all other States. One of those rights is control of the liquor traffic. Any State may put prohibition into its constitution and take it out again. A number of States have done that. Nothing that Congress can do can prevent any State, old or new, from putting into its fundamental law any provision that is not in conflict with the United States Constitution. While it is probable that proposed provision will be permitted by the new State to stand unassailed for a time, the practice of trying to tie the hands of new States by impossible expedients should not be greatly encouraged. All the constitutional rights possessed by the oldest are equally the possession of the youngest State, just as the man who was 21 years old yesterday has equal rights with his 80-year-old neighbor.

It is primarily for the first two paragraphs that I have read this editorial. It will be observed that the Springfield Republican very properly asserts that "the Indians of the Five Civilized Tribes * * * were guaranteed such protection by the United States Government when they abandoned their old tribal life;" and the editor of the Washington Post truly says that "no one will deny that the pledge of protection made to those five tribes by the United States Government ought to be sacredly kept. * * * It was a proper promise—a promise prompted by imperative duty."

As to the last paragraph, it seems to proceed on the assumption that the sale of intoxicating liquors involves some inherent right of citizenship, which point I believe I have discussed already with ample clearness, in the light of decisions of the Supreme Court declaring otherwise. The amendment which I have offered, I repeat, is but a specific proposition under the general reservation of Federal authority as contained in the proviso of section one of the bill, and is designed to make this bill measurably consistent with our positive agreements with these Indians. I, for one, am entirely unwilling to become a party to any legislation which would fail to secure the fulfillment of these obligations in absolute good faith, and unless this point is abundantly safeguarded I sincerely hope that the proposed legislation will not receive the sanction of Congress.

Mr. CLAY. May I ask the Senator from New Hampshire a question?

Mr. GALLINGER. Certainly.

Mr. CLAY. I was looking over the Senator's amendment, and I wish to ask the Senator if it is not true that his amendment does not go as far as the bill which was reported by the committee? If I understand the Senator's amendment, it simply provides that there shall be prohibition in certain parts of the Indian Territory for a period of ten years.

Mr. GALLINGER. Twenty-one years.

Mr. CLAY. I thought it was ten years.

Mr. GALLINGER. No; twenty-one years after the termination of Federal jurisdiction.

Mr. CLAY. But is it not true that the bill as it came to us from the Committee on Territories provides absolute permanent prohibition so far as the Indians are concerned, and then provides for prohibition as to all other persons for a period of ten years? I therefore ask, Is not the bill as it came from the committee really stronger than the Senator's amendment so far as prohibition is concerned?

Mr. GALLINGER. I can not find at the moment any provision in the bill relating to prohibition.

Mr. CLAY. I want to call the Senator's attention to page 5 of the bill as it came from the Committee on Territories. The Territories are required to insert these provisions in their constitution before being admitted as a State:

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages and the sale, barter, or giving of intoxicating liquors to Indians are forever prohibited.

That is on page 5. Now, here is the proviso:

Provided, That the sale, barter, or giving away, except for mechanical, medicinal, or scientific purposes, of intoxicating liquors within that part of said State heretofore known as the Indian Territory, or other Indian reservations within said State, be prohibited for a period of ten years from the date of admission of said State, and thereafter until after the legislature of said State shall otherwise provide.

I understand that part of this bill to mean that so far as the Indians are concerned you can not sell or barter whisky to them in any manner whatever, and that so far as other persons are concerned in this same Territory you can not sell or barter to them for a period of ten years. That was the explanation given by the chairman of the committee at the time we had this feature of the bill under consideration. It therefore strikes me that the original bill, as it came from the committee, was, so far as prohibition is concerned, even stronger than the amendment of the Senator from New Hampshire.

Mr. GALLINGER. From what does the Senator read?

Mr. CLAY. From page 5 of the bill.

Mr. GALLINGER. Oh, yes; I find it now.

Mr. CLAY. Then the proviso offered by the committee follows.

I remember calling attention to the fact at the time the matter was before the Senate, and I believe the Senator from Indiana [Mr. BEVERIDGE] and the Senator from Minnesota [Mr. NELSON] both agreed that this clause of the bill clearly meant that so far as the Indians were concerned the constitution of the new State was to prohibit the sale of whisky to them in any manner whatever, and to prohibit its sale to the balance of the inhabitants of the Territory for a period of ten years, and after that period the matter was to be left to the legislature of the State.

Mr. GALLINGER. Mr. President, I will say to the Senator from Georgia that I will examine this matter very carefully, and before the debate on this bill is concluded I will give him my best opinion regarding it.

Mr. CLAY. Does not the Senator think that Congress would have the right and power to prescribe the conditions of admitting a State into the Union; to require that the Territory should place in its constitution before the admission as a State those conditions, and that when the Territory came in as a State those conditions would be binding.

Mr. GALLINGER. I certainly agree to that proposition. There is no question about it. I will examine the matter carefully, I will say to the Senator, and will call attention to it before the debate closes on the bill.

Mr. STEWART. Mr. President——

Mr. BATE. Will the Senator allow me a moment before he takes the floor?

Mr. STEWART. Certainly.

Mr. BATE. The committee had that question up and discussed it. They had very grave doubts as to the constitutionality of such an amendment anyway. The committee converted "twenty-one years" to "ten years," and used the word "thereafter," which qualified it so as to let the State, after admission, take its own course in the matter. While the disposition of the committee, so far as I know, was to make the prohibition perpetual, if they could do so, there was a grave question as to whether, if the Indian Territory should become a State, we would have the constitutional right to force that State to do this after it had a constitution and State government. Unless the State put such a provision in its own constitution, it was doubtful whether there would be any power on the part of the Government of the United States to force the matter of prohibition upon the Indian Territory as a condition precedent to its admission as a State.

Mr. GALLINGER. Just a word. It is manifest from this discussion, Mr. President, that some wise provision will be evolved, even if the bill does not do it or if my amendment does not do it. It seems to me that the disposition of Senators on both sides of the Chamber is to protect these people, and I am hopeful, if this bill should pass and this new State be formed, that there would be the largest possible protection afforded to them that is consistent with the laws and Constitution.

Mr. BATE. I hope the Senator will be assured that such was the unanimous wish of the committee. They wanted to give every protection to the Indians in regard to the liquor traffic. They did not want it sold at all, but they had to do the best they could in that regard.

Mr. STEWART. Mr. President, the question of citizenship does not figure in this case. There is a total misconception, it seems to me, of the emancipation of the Indians and making them citizens of the United States by statute. The Indian is made a citizen by the Constitution of the United States. The fourteenth amendment provides:

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

The second section of the fourteenth amendment, it is true, does not allow Indians not taxed to be reckoned in the basis of representation, but it does not take away their citizenship conferred by the first section of the fourteenth amendment. The second section of the fourteenth amendment provides:

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

There can be no doubt that Congress has

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from all restrictions and confer upon them every right possessed by white citizens, but this has not been done in the Indian Territory. The Indians there are still wards of the Government. The acts of Congress conferring citizenship upon them and removing all restrictions do not authorize an Indian to convey title to his interest in tribal lands. The lands must not only be segregated by allotment, but the title must be conveyed to him by the chief of the tribe with the approval of the Secretary of the Interior. The removal of restrictions and the delivery of such a deed empowers the Indian allottee to convey a fee simple title to his land. Until that is done Congress has plenary power of legislation. In the Lone Wolf case the Supreme Court of the United States says:

Now, it is true that in decisions of this court the Indian right of occupancy of tribal lands, whether declared in a treaty or otherwise created, has been stated to be sacred, or, as sometimes expressed, as sacred as the fee of the United States in the same lands. (Johnson *v.* McIntosh (1823), 8 Wheat., 543, 574; Cherokee Nation *v.* Georgia (1831), 5 Pet., 1, 48; Worcester *v.* Georgia (1832), 6 Pet., 515, 581; United States *v.* Cook (1873), 19 Wall., 591, 592; Leavenworth, etc., Railroad Company *v.* United States (1875), 92 U. S., 733, 755; Beecher *v.* Wetherby (1877), 95 U. S., 525.) But in none of these cases was there involved a controversy between Indians and the Government respecting the power of Congress to administer the property of the Indians. The questions considered in the cases referred to, which either directly or indirectly had relation to the nature of the property rights of the Indians, concerned the character and extent of such rights as respected States or individuals. In one of the cited cases it was clearly pointed out that Congress possessed a paramount power over the property of the Indians by reason of its exercise of guardianship over their interests, and that such authority might be implied, even though opposed to the strict letter of a treaty with the Indians. Thus, in Beecher *v.* Wetherby (95 U. S., 525), discussing the claim that there had been a prior reservation of land by treaty to the use of a certain tribe of Indians, the court said (p. 525):

"But the right which the Indians held was only that of occupancy. The fee was in the United States, subject to that right, and could be transferred by them whenever they chose. The grantee, it is true, would take only the naked fee, and could not disturb the occupancy of the Indians; that occupancy could only be interfered with or determined by the United States. It is to be presumed that in this matter the United States would be governed by such considerations of justice as would control a Christian people in their treatment of an ignorant and dependent race. Be that as it may, the propriety or justice of their action toward the Indians with respect to their lands is a question of governmental policy, and is not a matter open to discussion in a controversy between third parties, neither of whom derives title from the Indians."

Plenary authority over the tribal relations of the Indians has been exercised by Congress from the beginning and the power has always been deemed a political one, not subject to be controlled by the judicial department of the Government. Until the year 1871 the policy was pursued of dealing with the Indian tribes by means of treaties, and of course a moral obligation rested upon Congress to act in good faith in performing the stipulations entered into on its behalf. But, as with treaties made with foreign nations (Chinese Exclusion Cases, 130, U. S., 581, 600), the legislative power might pass laws in conflict with treaties made with the Indians. (Thomas *v.* Gay, 169 U. S., 264, 270; Ward *v.* Race Horse, 163 U. S., 504, 511; Spalding *v.* Chandler, 160 U. S., 394, 405; Missouri, Kansas and Texas Ry. Co. *v.* Roberts, 152 U. S., 114, 117; The Cherokee Tobacco, 11 Wall., 616); (187 U. S., 553; also, Compilation of Laws and Treaties relating to Indian affairs, Kappler, 2d ed., Vol. I, p. 1058.)

The acts of Congress conferring citizenship have no more force in emancipating the Indians from the jurisdiction of the United States than has the provision in the fourteenth amendment of the Constitution. The Indians can not exercise their rights of citizenship until they are fully emancipated from their tribal relations any more than a minor can exercise the rights of citizenship which are conferred upon adults. Congress has continued to legislate for the Indians since they were declared citizens the same as before. The United States will not lose jurisdiction.

TO PROTECT THE INDIANS IN THE INDIAN TERRITORY

from intoxicating liquor so long as any restriction or limitation remains upon the rights of any of the Indians to exercise all the privileges of white citizens. Congress by the act of January 30, 1897, anticipated and provided against the danger of selling liquor to Indians before they were completely emancipated from their wardship. The act is as follows:

That any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian superintendent or agent, or any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and any person who shall introduce or attempt to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, which term shall include any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be punished by imprisonment for not less than sixty days and by a fine of not less than $100 for the first offense and not less than $200 for each offense thereafter: *Provided, however,* That the person convicted shall be committed until fine and costs are paid. But it shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the War Department or any officer duly authorized thereunto by the War Department.

SEC. 2. That so much of the act of the 23d day of July, 1892, as is inconsistent with the provisions of this act is hereby repealed. (29 Stats., 506; also Compilation of Laws and Treaties relating to Indian Affairs, Kappler, 2d ed., vol. 1, p. 83.)

The only qualification of their citizenship in the Constitution is that, if they are not taxed, they shall not be counted in the basis of representation. Still, they are declared to be citizens.

In the very outset of the legislation which brought the Dawes Commission into existence the Senate Committee on the Five Civilized Tribes of Indians made known its purposes and views respecting such legislation in this wise:

As we have said, the title to these lands is held by the tribe in trust for the people. We have shown that the trust is not being properly executed, nor will it be if left to the Indians, and the question arises, What is the duty of the Government of the United States with reference to this trust? While we have recognized these tribes as dependent nations, the Government has likewise recognized its guardianship over the Indians and its obligations to protect them in their property and personal rights.

That goes down to the very bottom—"the obligation of the Government to protect the Indians in their property and personal rights."

If the tribe fails to administer its trust properly by securing to all the people of the tribe equitable participation in the common property of the tribe, there appears to be no redress for the Indian so deprived of his rights unless the Government does interfere to administer such trust. (May 27, 1894, S. Rept. 377, 53d Cong., 2d sess.)

This language is quoted by Justice White in the case of Cherokee Nation *v.* Hitchcock. (187 U. S., 302. See also Compilation of Laws and Treaties Relating to Indian Affairs, Kappler, 2d ed., vol. 1, p. 1056.)

And all the legislation in reference to these tribes of Indians, viz, the investiture of them with the rights of citizenship as United States citizens and the controlling and administering of their property, even after citizenship is conferred, has been kept up by Congress ever since, showing clearly that the privilege of citizenship conferred has not in any wise by any act of Congress taken away

THE RIGHT OF THE POLITICAL POWER OF THE GOVERNMENT

to administer all the property of these Indians and in any manner the Government shall see just and proper. This power is asserted to exist by the United States Supreme Court in the case of Lone Wolf *v.* Hitchcock. This principle is asserted in the case of Cherokee Nation *v.* Hitchcock (187 U. S., 308), where Justice White, speaking for the United States Supreme Court, says:

There is no question involved in this case as to the taking of property. The authority which it is proposed to exercise by virtue of the act of 1898 has relation merely to the control and development of the tribal property, which still remains subject to the control of the Government even though the members of the tribe have been invested with the status of citizenship under recent legislation. (Compilation of Laws and Treaties Relating to Indian Affairs, Kappler, 2d ed., vol. 1, p. 1058.)

By reference to the legislation on that last subject it will be found that no final and absolute title, free from the control of the Government, has yet been conferred on any of these Indians. No Indian title is yet perfected in the Indian Territory.

In the case of Re Celestine (114 Fed. Rep., 551), the right to protection as a citizen by the giving of an allotment to an Indian was held by the district court of the State of Washington to exist, but it was not then declared that allotment prevented the Government from protecting the tribal property rights after allotment; but in the case of the Indians here there has been no complete allotment. There is a distinction drawn by the Supreme Court in its dealing with the question of the power of Congress to administer tribal property of Indians between personal rights and rights of property. Citizenship conferred in no wise divests Congress, according to the Lone Wolf case and the Cherokee case *v.* Hitchcock, of

THE RIGHT TO ADMINISTER TRIBAL PROPERTY,

and property vested in the tribe as trustees for the members thereof can be administered in any way Congress determines, free from interference by the courts, so long as it has not become finally and irrevocably vested in the individual Indian; and so long as Congress is engaged in administering the property rights of Indians as the wards of the Government it is the duty of Congress to protect them from alcoholic poison.

When anything remains to be done to emancipate the Indian as a ward, as to his estate, from the control of Congress, the power to continue administration in the best interests of the Indian, which the political power of the Government solely controls, still remains until unequivocally relinquished by such political power. A mere casual glance at the scheme of allotments to be made to the individuals of the Five Civilized Tribes will show in how many respects the allotments, even after they are allotted, have to be disposed of under conditions, and these conditions can be controlled and made effectual and carried out by acts of Congress. This must be the case as long as

CONGRESS CHOOSES TO EXERCISE THE POWER.

The Dawes Commission expires by limitation on the 1st of July, 1905, and yet tribal relations do not cease and administration of Indian property may not cease at that time, and if anything remains to be done, even under the laws as they now stand, Congress has the power to direct how those provisions of the allotment laws shall be administered and by whom. The tribal relations of these Indians have not ceased to exist, the fee simple title absolute divested of all conditions has not yet vested, and under the present law no title now vests except subject to the power of the Government to see that the conditions as to sale and disposition of allotments are carried out. Determinations as to contests over rights to allotments, questions of intrudership, and the like still remain and will long remain for adjudication. Hence the imperative necessity for the control of Congress over the administration of tribal property. And by tribal property the decisions above quoted do not mean to say that it is only property still held in trust for the members of the tribe by the tribe as a dependent nation; it also means that property which the individual Indian by allotment has gotten from the tribe. And these decisions draw no distinction between the power of Congress over tribal property unallotted and tribal property allotted as long as the necessity exists to protect the Indian and carry out to the letter the laws on the subject of allotment and sales and disposition after allotment.

Congress has frequently passed

LAWS PROHIBITING THE SALE OF LIQUOR

on Indian reservations that are situated in the various States. The Indians residing on such reservations, although they live in the States, are as much citizens of the United States as Indians in the Indian Territory. Men are punished every day, and have been from time immemorial, whenever caught selling liquor to Indians throughout the United States. That power has been exercised with the approval of the courts, with the approval of Congress, and it has been regarded as settled.

THE INDIANS IN THE INDIAN TERRITORY

are not emancipated. We hold them still as wards. We say they shall not sell their property for twenty-one years. We say, although they are citizens, they are not citizens with all the rights and privileges of citizenship such as white men enjoy. They are wards, and this wardship has got to be expressly abandoned by the United States before the power is vested in them.

It has been said that if the Indian Territory becomes a State, then Congress can not legislate any more with respect to Indians in that State. How does it happen, then, that Congress now legislates for Indians in the several States and prohibits the sale of liquor to Indians? It is said there will be a lot of white people among the Indians, and that you can not protect the Indians without preventing the white men from having liquor. If you can not protect the Indian in any other way, and you have the power to protect him if he is the ward of the Government, then

IT IS THE DUTY OF THE GOVERNMENT,

and it is the only thing to do, to keep liquor out of the country where he is. If that be the only method, the power to do the thing carries with it all the necessary incidents.

Mr. TELLER. Mr. President, will the Senator allow me to interrupt him?

Mr. STEWART. Yes.

Mr. TELLER. Do we not legislate for the Indians in the States because they are members of tribes? Do we legislate for any Indians that are not included with a tribe? We do not, to my knowledge.

Mr. STEWART. Oh, yes.

Mr. TELLER. When and where?

Mr. STEWART. We have general laws punishing the sale of liquor to the Indians whether they are members of tribes or not.

Mr. TELLER. No. The Senator can not find anything of that kind. The Indian must be an Indian within the law; he must be a member of a tribe.

Mr. STEWART. No. They have never been recognized by the Government in their tribal relations. For instance, only a few of them have been treated with and put on reservations. The great majority of them have run loose. Still, persons who sell liquor to wandering Indians are punished the same as those who sell liquor to Indians living in tribes.

The question has been raised whether this can be done; and the courts have given the widest construction to the power and duty of the Government to protect the Indians from the use of liquor wherever they are found in the United States.

THE USE OF LIQUOR IS DEMORALIZING.

It is annihilation. It ends the Indian. If you give him liquor he will not long survive. It destroys him, and it seems to me it would be a farce if, having control of his tribal property and control of him in every other way, you could not protect him from an evil that is inevitable destruction. He has been protected for a long time and will be protected now.

If the Indian Territory is admitted to statehood and it becomes necessary to protect the Indians there, who are still the wards of the Government—for they are not allowed to sell their homesteads for a great many years, and they are not allowed to do other things for a term of years while they are wards of the Government—shall we say that, because white men are in the State, we must let them take in liquor, and we must abandon our control over the Indians and the protection that we are under every obligation to afford? Certainly not. The Indians will be protected.

This is a very different proposition from the proposition in regard to polygamy.

THE MORMONS WERE NEVER WARDS OF THE GOVERNMENT.

We never had to look after them. They set up for themselves at an early date. They have been quite independent, and we have not had any treaty relations with them.

Mr. KEAN. But they have kept us pretty busy.

Mr. STEWART. They have kept us pretty busy, but we have never had any treaty relations with them. No court has ever held that we were under any obligations toward them, other than toward other white men. They were never wards of the Government, and, consequently, the provision of the State constitution, with reference to polygamy, probably failed whenever the State passed other laws.

When a State is admitted into the Union it comes in equal to all the other States; it comes in with the same rights and privileges that all other States have; and all the States that have come in have recognized the

OBLIGATION OF THE GOVERNMENT TO PROTECT THE INDIANS.

The Indian has been the ward of the Government from the beginning, and every State that has come into the Union has understood that fact. Nearly every volume of the reports of the Supreme Court, from the time of Marshall down, reiterates the doctrine that the Indians are wards of the Government and that it is the duty of the Government to protect them, and if there is anything that it ought to protect them from it is the sale of liquor, which will destroy them. Certainly until they are entirely emancipated, until we cut loose and abandon our wardship and give them their property with a right to dispose of it as they will, that obligation to protect them from the sale of liquor will exist. It has been so recognized. If in the Indian Territory, after it becomes a State, there is no statute passed respecting the sale of liquor to Indians, Congress could say that the Indians shall be protected, and if it is impracticable otherwise to protect them or to keep whisky out of the territory where they reside, Congress has the power to exclude it. I have no doubt of that.

Mr. TELLER. Had we not better provide for the insertion of such a provision in the Constitution?

Mr. STEWART. It is well to put it in the Constitution. It is better never to lose sight of that. In dealing with these people we want the country to understand that the Government of the United States is not going to abandon these wards for their destruction and do indirectly what it would be a gross crime to do directly by turning them over to State legislation, when it is the duty of the Government itself to protect them, and the only way to protect them is to prohibit the introduction and sale of liquor in the Indian Territory and Indian reservations in Oklahoma.

Mr. FULTON. I should like to ask the Senator from Nevada a question.

Mr. STEWART. Certainly.

Mr. FULTON. How long does that power of the Government continue? And following that question I will ask the Senator this: Suppose the Indians cease their tribal relations, take up the duties of citizenship, and become to all intents and purposes members of society. Does the right of the Government to enact and enforce such legislation as the Senator suggests still continue?

Mr. STEWART. If the Senator means by that that there is no property which they receive as a tribe, that there is nothing for the Government to protect, that they are full citizens and taxed as other citizens are, so that they are entirely free from governmental control, then I suppose it would cease. Whenever the Government has come to the conclusion that an Indian is capable of taking care of himself, and he is taxed as other citizens are taxed, and the Government has no control over his property, then it ceases. He is emancipated.

Mr. FULTON. You do not think the Government would have any power after that?

Mr. BEVERIDGE. Yes; power.

Mr. FULTON. That is what I am discussing—as to whether or not the Government has power beyond that point.

Mr. BEVERIDGE. Yes; but it then would go back of the tribal relation that is dissolved. It would be merely a moral obligation on the one hand and a prudential measure on the other.

Mr. FULTON. I should like to be informed on this point: From what provision of the Constitution does Congress derive the authority to legislate concerning an Indian after he has become a citizen, when he has severed his tribal relations and become a member of society in the State the same as his white neighbor, assuming all of its duties and responsibilities and endowed with all of its privileges? I say from what provision in the Constitution of the United States do you derive the authority of Congress then to legislate concerning him, to make any different rule or regulation concerning his conduct——

Mr. STEWART. I understand your question.

Mr. FULTON. Than is made as to any other individual citizen or class of citizens?

Mr. STEWART. There is nothing in the Constitution that makes him a ward of the nation.

Mr. BAILEY. Will the Senator from Nevada permit me to propound another question?

Mr. STEWART. Let me answer now.

Mr. BAILEY. You can answer both at once.

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Texas?

Mr. STEWART. If it does not take too long.

Mr. BAILEY. Could a State pass a law applying a different rule to an Indian who has become a citizen of the United States from that applied to a citizen who had never been an Indian? Would not such a law be obnoxious to the fourteenth amendment, which prohibits a State from denying to any citizen the equal protection of the law?

Mr. STEWART. There is nothing in the Constitution of the United States creating this guardianship over the Indians, but from Judge Marshall down to the present time there are hundreds and hundreds of pages in the reports saying that the United States is the guardian, and I do not suppose the United States would go back on all those traditions and decisions. The question is when that guardianship ceases to exist.

Mr. BAILEY. When their tribal relations cease.

Mr. STEWART. I beg pardon; not when the tribal relations cease. It does not cease to exist as long as the Government has any control over him or his property. It continues as long as the Government looks to him as a ward; and the Indians in the Indian Territory are regarded as wards for twenty-one years after they get the allotments, because they are not allowed to sell them. They can not do as other citizens do, showing that the United States continues that wardship. Congress might repeal that now before the time elapses. It has absolute control. It is a matter of legislation. It can be done by legislation. Congress has the absolute power to do it, growing out of this obligation that

THE SUPREME COURT HAS REPEATEDLY HELD

that the United States was under to guard and protect the Indian in his person and property. Now, the Indian is different from any other person, and whether it is in the Constitution or not, I think we will be governed by the decisions of the Supreme Court. When an Indian can sell his own property and becomes a citizen and is taxed, then he is probably entirely emancipated.

Mr. FULTON. I do not wish to disturb the Senator, but I am asking for information. I should like to have the Senator tell us, if he has time and is disposed to enter upon a discussion of that question, what was meant by the act of Congress conferring citizenship on these Indians?

Mr. STEWART. Nothing, so far as the question under consideration is concerned.

Mr. FULTON. What did it mean?

Mr. STEWART. It meant to make them citizens the same as minors and other wards are citizens.

Mr. BAILEY. The court has held that we have not made them citizens.

Mr. STEWART. Oh, no.

Mr. BAILEY. The court has expressly held that an Indian while retaining his tribal relation is not a citizen of the United States.

Mr. STEWART. Conceding that they are——

Mr. BAILEY. The court says they are not. If the Senator from Nevada wants to dispute with the court——

Mr. STEWART. I do not want to dispute with the court at all. I would want to get its whole decision before I disputed with it. The Constitution says that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside." But when they fix a basis of representation, they say if he is not taxed he shall not be counted in the basis of representation.

Mr. BAILEY. The Senator from Nevada has simply omitted to examine the case to which I refer. That was a case where an Indian, who had severed his tribal relation, insisted upon his right to vote; and the court, reviewing the whole question, declared that an Indian who still maintained his tribal relation was not a citizen of the United States, but that an Indian whose

tribal relations had been dissolved was a citizen of the United States and entitled to the rights and privileges of all other citizens.

Mr. STEWART. When the tribal relations are dissolved, the tribal property administered, and he is taxable, and his property is subject to taxation, then he is a citizen, and not until then. Then he is emancipated. He is no longer our ward. Then he ceases to be a ward of the Government.

Mr. BAILEY. The Senator from Nevada knows that when the Supreme Court of the United States denied the right of Kansas in one instance and New York in another to tax the Indians' property, which the Government had guaranteed should be free from taxation, the court based its decision expressly on the ground that those Indians still maintained their tribal relation.

Mr. STEWART. Certainly.

Mr. BAILEY. But every argument in the case short of a direct statement, and that would have been going outside the record, is that if the Indian does not maintain his tribal relation, then the Federal Government could not exempt his land from taxation and the State could tax it.

Mr. STEWART. In the Indian Territory the homestead of every Indian is reserved. He can not sell it. It can not be taxed. The law provides it shall be nontaxable.

Mr. BAILEY. That is the law.

Mr. STEWART. That is the law.

Mr. BAILEY. But Congress can not make that kind of a law for a State of this Union.

Mr. STEWART. I think it can.

Mr. BAILEY. The Supreme Court practically says it can not.

Mr. STEWART. No. The court says that the Government has absolute power to distribute his estate and has control of him until it is accomplished, until he is freed by act of Congress from the wardship that the Government has over him. That is the tenor of all the decisions.

Mr. BAILEY. I did not make myself clearly understood to the Senator. I do not question that to be true so long as the tribal relations exist, because a State, as in the case of Kansas, may expressly provide in its constitution that the Indian tribe should be subject to the jurisdiction of the Federal Government; and I think the court very properly decided that so long as that tribal relation existed the people of Kansas could not tax the land, although in those cases, or at least in one, and I think in two, of them, it was provided that the Indians might own their lands in severalty, though they still owned it as members of a tribe. The court said that that was true, and so long as this condition existed, whether in a State or a Territory, the jurisdiction of the Federal Government over them was complete. But the moment that tribal relation is dissolved and the Indians are merged into the body of the citizenship, the Federal Government has no more power to govern an Indian as such than it has to govern a black man as such.

The Indians are only a dependent nation when they are a tribe. That was the decision, beginning with Judge Marshall down even to the Kansas and New York cases—that the Indians were a kind of dependent nation, with whom the United States dealt as such. But when the Indian nation disappears, the Federal Government has no more power over the Indian himself than it has over the African or the African's descendants.

Mr. STEWART. To undertake to say that the Federal Government has no power to declare these homesteads exempt and to prevent their sale for twenty-one years——

Mr. BAILEY. Undoubtedly it had, as long as they were in a Territory.

Mr. STEWART. It did that.

Mr. BAILEY. Yes; but the Federal Government can not determine the rule of descent, distribution, or alienation of property in a State, for that is a domestic matter, which must rest within the power of the State.

There arises another question which I am not at this time prepared to express an opinion on, and that is this: These people hold by given title, and if they violate the condition of that title, would not the title revert? But if it did, it would not revert to the United States, because the title which the Indians now hold they do not derive immediately from the United States, properly speaking. They hold a deed made many years before these exemptions.

Mr. STEWART. The Supreme Court has declared over and over again that it is the duty of the United States to administer the property of the Indian, and do it completely, and to say that the Government has not full jurisdiction is untenable.

Before the fourteenth amendment was adopted an Indian to become a citizen was compelled to be naturalized. Since that time, I apprehend, if the United States should free him of all restrictions and tax him, he would become

A CITIZEN WITHOUT NATURALIZATION.

It is a part of the functions of the guardian to say how and when the ward's property shall be disposed of. That is when he is sufficiently emancipated. The Indian is not yet emancipated. If we had the power, while he was in the tribal relation, to provide for the distribution of the property, the Government has the power to carry out that decision if it was legal and proper when it was made. The decree which the Government made in the distribution of the tribal property is final and remains in force until executed. So long as the Government maintains its decree of distribution the power to do so remains.

THE INDIANS ARE WITHIN THE POWER

of the Government until they are fully emancipated. I assume that when the tribal relation is broken then they will be citizens. They will then be taxed as other citizens are. When there is nothing remaining for the Government to administer or protect, its jurisdiction will be ended. That condition does not yet prevail, because the tribal relation still exists. It will not be severed until the 4th of March, 1906. While the Indians are in tribal relation the Government has complete and plenary power to legislate respecting them under all the decisions of the Supreme Court, and after Congress legislates, to say that that legislation shall not be effective, when property rights grow out under it, that a decree of the Government taking care of the Indians while it has jurisdiction shall not be carried out after the State is formed, is a new doctrine to me. I do not believe a word of it.

While the tribal relations are still in force the Government has complete power, and having that power it is its duty, before it turns the Indians over to the State, to provide against the destruction of these Indians by the liquor traffic. If it can not do it in any other way than by denying statehood for the next fifty years, the Government should not abandon these Indians and abandon its power to protect them from the evil that everybody knows will destroy them. I have no doubt

THE COURTS WOULD SUSTAIN ANY REASONABLE LAW

that will protect them against the liquor traffic after it is in a State, the same as it will in the various States.

It is not necessary to prove that the Indians maintain their tribal relations to convict a person charged with selling liquor to them. You have seen trials in the United States courts for selling liquor to Indians. The courts do not inquire if the Indians live in tribal relations, and all you have to prove is that he is an Indian. That is all. He may be one of a wandering band, belonging to no tribe, as many of them are. The Committee on Indian Affairs has applications every few days for aid to wandering bands who belong to no tribe. We passed a bill at this session to buy some land in the Flathead Reservation for some Indians who did not belong to any tribe. The Government had to take care of them. We assumed the power to take care of those wandering Indians. They were needy, and we bought land for them because they were Indians; and while the Government is dealing thus with them, it will not do to admit this State and turn the Indians over to a reign of grogshops, because we know that liquor will destroy them and the Congress is not going to do it. If it

INVOLVES THE RELINQUISHMENT OF JURISDICTION,

in order to prevent these Indians from being destroyed, Congress will, as it has the power, repeal those treaties which provide for the dissolution of the tribal relation.

Congress has a right to repeal any of those treaties. It has plenary power to so do. There is no question about it. The Indians themselves have no title until the Government gives it to them. It is a political title that the Indians possess, the lands belonging to them in a political capacity, and a deed amounts to nothing. It gives them no individual rights, and if giving them individual rights means giving them individual and general destruction, do not pass this bill.

If there is any doubt about the power of Congress under a State government to protect these Indians from destruction, which the sale of liquor among them would effect, do not give them State government. I believe that duty will continue. I do not believe in

CONGRESS MAKING CONSTITUTIONS FOR NEW STATES.

The States must come in on equal terms. I do not believe we can do that. Many provisions have been suggested for this and other States which do not amount to anything. When a State comes into the Union, it must have the rights that all the other States have.

The Indian Territory should not be incorporated into a State without specific language in the enabling act providing for the perpetuation of prohibition against the liquor traffic after it

becomes a State to the full extent of the prohibitory law now in force.

Mr. BAILEY. Mr. President, just a word on this question. When an Indian becomes a citizen of the United States, the law takes no cognizance of the color of his skin or of his former tribal relation. It takes no more cognizance of that than it takes of the former nationality of an Englishman or a German or a Russian who becomes a naturalized citizen of the United States.

Therefore, if a State of this Union, whether in pursuance of a condition imposed on it by Congress or in pursuance of its own free will, should attempt to lay down one rule of conduct for its citizens of red skin, another rule of conduct for its citizens of black skin, and still a third rule of conduct for its citizens of white skin, its legislation on that subject would be in violation of the fourteenth amendment to the Federal Constitution, and absolutely void.

Now, Mr. President, let us take the question of the exemption of the homestead from taxation. Mark you, I readily and freely grant that the Federal Government can exempt tribal property of an Indian nation from State taxation. I not only grant that the court has so decided, but, in my opinion, the court correctly decided that so long as the Indians maintain their tribal relations, although under a treaty with the Federal Government they might own their lands in severalty, those lands were still not subject to State taxation against the stipulation of a Federal treaty for their exemption.

But there is the widest possible difference between the Indian as a tribesman and the Indian as a citizen, and when the Indian becomes a citizen of the United States the Congress has no more power to exempt his property from taxation than it has to exempt that of any other citizen with reference to his nationality or the color of his skin. In other words——

Mr. STEWART. Right there——

Mr. BAILEY. Let me complete the statement.

Mr. STEWART. Yes.

Mr. BAILEY. In other words, a State law providing that hereafter the homesteads of all men of Indian blood shall not be taxed, while the homesteads of all other men, either may be or shall be taxed, would establish a rule of discrimination forbidden by the fourteenth amendment.

Mr. STEWART. Then I understand you to maintain that although the United States has jurisdiction in the distribution of the property while the Indians constitute a tribe, and may set apart the homestead and provide that it shall not be alienated or taxed for a period of twenty-one years, or any given number of years, notwithstanding the United States has made a decree while it has jurisdiction, if it admits the State into the Union, that decree, so far as the homestead is concerned, is nullified and set aside by the admission of the State into the Union?

Mr. BAILEY. Undoubtedly, I think so, so far as the exemption from taxes is concerned; and the only thing that will save the inalienability of the homestead is that the courts may hold that the Indian holds that fee upon a condition that it will not be alienated, and that an alienation of it is a breach of the condition and, therefore, works forfeiture of the title.

I do not undertake to say that the court will hold that, but the court could so hold, and probably it would be well within the law. But what seems to me obscure in the Senator's mind, if he will pardon me, is that he assumes that because the Federal Government had a given jurisdiction over an Indian under one status, its jurisdiction follows an Indian into a wholly different status. The Federal Government's jurisdiction over a citizen of a Territory is ample; it is plenary, we will say; but the moment the Federal Government admits that Territory as a State into this Union, the jurisdiction of the Federal Government devolves upon the State, and the Federal Government thenceforth is powerless to regulate the domestic relations of all citizens within that State.

Now, it may be that the Federal Government has assumed obligations toward the Indians, which in the nature of our Government it can not perform within the jurisdiction of a State. If so, that may be a good argument against the admission of the Indian Territory as a State; but it can not justify us in attempting to clothe the Federal Government with power over men who have been released from its guardianship, and who have been made by the laws of Congress citizens of the United States.

Mr. President, I have myself doubted, I doubt this afternoon, if it is possible for the United States to discharge entirely and fully its obligations to the Indians as citizens within a State. I think that when this bill passes, if it does pass—and I hope we will be able to pass it in some form—there will be an infinite deal of litigation grow out of conditions there, and——

Mr. STEWART rose.

Mr. BAILEY. My judgment is that when the highest court in this land finally passes judgment on it, they will hold that when the United States dissolved the Indians' tribal relation, made him a citizen of the United States, and then surrendered its jurisdiction to the newly formed and newly admitted State, the General Government then has no more power over the Indian and his property than it has over any other citizen. I venture that prediction. That must be the decision, for if the Federal Government can follow the Indian into a State it can follow the black man, it can follow the yellow man, it can follow the white man, because it is not a question of color, it is not even a question of race; for the Government of the United States knows no distinction as to race or color after it makes a man a citizen of the United States. Now, I will hear the Senator from Nevada.

Mr. STEWART. My position is this: The United States at the time it passed this law, having complete jurisdiction over the subject in distributing the property, distributes it in a certain way. Undoubtedly the Government had the power to do that. It gave the Indian a homestead and provided that he should not sell it for twenty-one years. It guaranteed that that homestead should not be taxed. Having complete jurisdiction to administer upon the estate of the tribe and dissolve the tribal relation and administer its property, as the courts have repeatedly said, when they have done that I believe it becomes a decree, it becomes a decision of the United States having full jurisdiction, and it will remain after the State is formed. I do not believe that forming the Territory into a State reverses the decree for the distribution of property with those conditions. I believe the right given remains with the Indians, because the United States originally had the power to give it and it did give it. But there must be something expressly done. I do not believe it can be by implication. It can only be done by an express act of the United States. That is my position.

Mr. BAILEY. The trouble with the Senator's argument is that it has been advanced before the Supreme Court, and it did not find favor with that great tribunal. The Senator shakes his head, but I venture to say the Senator has not read the Kansas exemption cases, or he would be quick to perceive the conflict between the doctrine there announced and the doctrine he lays down here. The whole ground upon which the court sustained the exemption in that case was that the Indians still retained their tribal relation. The Senator will recall that in that case, just as here, the Indians had the Government's contract, the Government's guaranty, if you prefer that, or treaty obligation—no matter how you describe it—that that land should be free from taxation.

But in the face of that treaty the State of Kansas in one instance, and the State of New York in another instance of a different tribe, sought to levy taxes on it. The Indians applied to the court and through the orderly procedure the question finally reached the Supreme Court of the United States. That court held that because the Government had guaranteed the exemption to the Indians as a tribe it took it outside of and put it beyond the power of a State to tax their lands. The State of Kansas had agreed, when admitted to the Union, that these Indian tribes should occupy the land within their borders, and because those Indian tribes still occupied it as tribes they were exempt from the power of taxation in the State of Kansas. But the court declared that that is the ground and the only ground of exemption.

Now, following the argument of the court that the law of Kansas was invalid alone because it sought to tax the lands of Indian tribesmen, then, when they are not tribesmen, is not the State free to tax them?

Mr. STEWART. That is an inference to be drawn. The fact that they were tribesmen and that the Government had given them the guaranty was sufficient. But suppose the Government had dissolved the partnership, that it had dissolved the tribe, and made a decree as to this particular land and as to these particular Indians, and while it had jurisdiction to do it, did it as a part of the distribution of property, I do not think the Supreme Court of the United States or any other court would ever hold that that guaranty should not continue. I think to hold otherwise is carrying it too far.

Mr. BAILEY. The Senator forgets that the Government made this treaty with these Indians while Kansas was still a Territory. It moved them from the State of Missouri into the Territory of Kansas, where the Federal jurisdiction still prevailed over the entire Territory, including the Indian reservation.

Mr. STEWART. Just as it does over the Indian Territory now.

Mr. BAILEY. When Kansas became a State, Congress incorporated into the act admitting her a provision very similar

to the one we have in the pending bill, that the power of the Federal Government should still exist with reference to the Indians there.

Mr. STEWART. If the Senator will allow me right here, I have no doubt that if in Montana the Government should dissolve the tribal relation of any of those Indian tribes and say, "We will decree so much land to each one of you on condition that it shall not be sold," that would be a valid law and the State could not repeal it.

Mr. BAILEY. Then, if the Government of the United States can say that the lands of one man are inalienable for twenty-one years, it can say that the lands of every man are inalienable for twenty-one hundred years, and thus the Federal Government can establish perpetuities; or if the Federal Government can say that the owner can not sell for twenty-one years, it can say that the inheritance shall devolve upon the oldest son in perpetuity.

Mr. STEWART. Oh, no; it can not do that.

Mr. BAILEY. And thus it can not only establish perpetuity, but it can reestablish the old and forbidden law of primogeniture.

Mr. STEWART. Oh, no.

Mr. BAILEY. Nobody believes that Congress can do that.

Mr. STEWART. It can not do that, but it can do another thing. The title is not in the Indians. When the tribal relation is dissolved there is no tribe to hold title. Then it reverts to the United States if the United States would propose to take advantage of it. It does not, however. It helps the Indians along.

Mr. BAILEY. It helps the Indian along by giving him a part of what was always his.

Mr. STEWART. No matter about that. The Indians have a right which the United States had absolute power to take away. When the Government dissolved the tribal relation it might resume its ownership of the property, not having the moral right, but the power to do it. It says, "We will not take it away from you absolutely, but we will distribute it and we will hold it for you in a perfect title for a certain length of time." He is not situated as other people are, because he has not a complete title and can not get a complete title. He can not get thoroughly emancipated from the United States Government. The Government says: "For twenty-one years we will hold jurisdiction of this matter, so far as this property is concerned. If you should attempt to sell it, the United States might annul the sale."

Mr. BAILEY. I desire to record it here for the third time that I do not say the Indian can sell his land against that stipulation. I do not say that the State itself can relieve him of that, because the courts could well hold that he has a title upon condition, and that for condition broken his title would fall. But that does not depend upon the power of the Federal Government to follow that Indian into the State and to regulate even the descent or the transfer of personal property. What shall be a valid transfer in any State of the Union for either personal property or real estate must depend upon the law of that State. The law of descent and distribution depends upon the legislative will of a State and not upon the Federal Government.

The trouble with the Senator from Nevada and his friends in this matter is that they are trying to do for a ward of the General Government what the whole theory of our Government forbids the nation to do for anybody in a State.

Mr. STEWART. What I contend for is that any time within the twenty-one years the Government has the power (of course it would not exercise it at all) to take that land from them and give it to another man. The State has no control over it.

Mr. BAILEY. No, Mr. President.

Mr. STEWART. It would be morally wrong, but the power is there.

Mr. BAILEY. That would be a legal impossibility under our form of government.

Mr. STEWART. The Government would never do it, but as far as the power is concerned, under the decision of the Supreme Court it could do it.

Mr. BAILEY. I do not agree to that. I believe that the Federal Government can not divest a right in that way. Of course, there is not in the Constitution the same prohibition against the Federal Government impairing the obligation of contracts that there is against States doing it; but the Supreme Court said in the Pacific Railroad cases that the Government could not impair the obligation of a contract, and though that question was not in that case, I prefer to accept it. I prefer to believe that there is no power lodged anywhere in this Government which enables any legislature anywhere to take from one man and give to another man.

Mr. STEWART. I agree with the Senator in that.

Mr. BAILEY. Every State forbids it in its constitution.

Mr. STEWART. One man has not the title. That is the trouble here.

Mr. BAILEY. The Senator begs the question again. He is the chairman of the Committee on Indian Affairs. I put the question to him: Do not the Chickasaw and Choctaw Indians hold their land by deed, and did they not so hold it even before the Atoka agreement, as it is called?

Mr. STEWART. Certainly; the tribes hold it by an agreement, by a deed from the Government of the United States.

Mr. BAILEY. They hold it by solemn deed from the Government of the United States.

Mr. STEWART. But if the tribe is dissolved, who owns it?

Mr. BAILEY. Who dissolved the tribe? The Government?

Mr. STEWART. Yes.

Mr. BAILEY. How easy it would be if a tribe owned something which the Government wanted. The Government dissolves the tribe and then takes advantage of its own wrong

Mr. STEWART. It might do it; but it would be an outrage.

Mr. BAILEY. Not in all Christendom is there an assembly where such a doctrine would be either invoked or justified.

Mr. STEWART. No, it never could be justified, but the Government would have the authority to do it.

Mr. BAILEY. It has no power to do it.

Mr. STEWART. The Supreme Court has held that the Government has the power.

Mr. BAILEY. With all deference to the Senator from Nevada, the Supreme Court has never held any such doctrine. The Senator can search its reports from the beginning to this day and he will not find where that court has ever yet decided that the Federal Government could take the property that belongs to one man and devote it to its own or another's use.

The Supreme Court has held that the Government of the United States could make treaties with them, and it is true those treaties have largely been farcical. It is true that the Government has imposed upon the Indians its will, just like it is trying to impose upon this Indian State its will again. But in all the cases where transfers of land have been involved the Government has acquired those lands by treaty. In very few of the cases did it ever happen that in addition to a treaty the Indians held a deed to the land.

Mr. STEWART. The Supreme Court in the case I have cited held in so many words that the power was in the United States to repeal the treaty.

Mr. BAILEY. To repeal any treaty.

Mr. STEWART. Then there is no grantee; there is no person to hold the property; and it must necessarily revert to the United States.

Mr. BAILEY. But they did not hold it under treaty; they held it by deed.

Mr. STEWART. That does not make any difference. It is a political deed, not a deed to the individual at all.

Mr. BAILEY. Political is a new definition of a deed.

Mr. STEWART. Oh, no; it has been so decided right along. I will cite the Senator to any number of cases. I will satisfy him that the Supreme Court have so decided over and over again.

Mr. BAILEY. The Senator does not need to tell me that he can cite a decision showing that the court have held that Congress can repeal a treaty. They have not only held that Congress can repeal a treaty with the Indians, but they have held that Congress can repeal a treaty with any nation in the world. The courts have unbrokenly held that and no man questions it. Congress could repeal a treaty with an Indian tribe just the same as they could with any foreign nation. But in this particular case I say the Indians hold their lands by a deed and not merely by a treaty, and therefore——.

Mr. PATTERSON. Will the Senator from Texas yield to me to call his attention to some matters in this connection that I may get some enlightenment upon the subject?

Mr. BAILEY. Certainly.

Mr. PATTERSON. I understand that this whole controversy is based upon the provisions of the bill for the union of Oklahoma and the Indian Territory, and particularly those that relate to the Indian Territory.

I think that Congress in this bill recognizes the substance of what the Senator from Texas claims, namely, that Congress of itself would have no power to exempt the lands these Indians have secured from the Government by allotment or homestead or otherwise from taxation; but that if they are exempted from taxation it must be not only at the request of Congress, as provided in the bill for the admission of these States, but by a solemn compact entered into on the part of the new State upon the one side and the United States upon the other.

Mr. BAILEY. The Senator from Colorado is exactly correct about that.

Mr. PATTERSON. The bill provides in section 21—

That the delegates to the convention thus elected shall meet, etc. * * * And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First—

And then, among other things:

But nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Now, then, Congress having attempted to distribute these lands among the Indians, and having fixed the terms and conditions of distribution, the limitations upon alienation, and the exemption from taxation, may it not, by an ordinance of the State embedded in its constitution, before the constitution shall be satisfactory to Congress and the proposed new State could become a State, make that proviso absolutely effective?

Mr. STEWART. That is my point. Now, I should like to call attention——

Mr. PATTERSON. I suppose that all the Senator from Texas could claim would be that the new State would have a right at some future time to amend that constitution, but if the constitutional convention of the new State—if this bill should pass and ultimately become a law—should by ordinance provide precisely what this bill requires it to provide for, and not amend the constitution thereafter, I am inclined to think it would be effective to the very end. I have not the slightest idea that Congress would ever attempt to amend it.

Mr. STEWART. Let me call attention to this——

Mr. BAILEY. Let me first reply to the Senator from Colorado.

Mr. STEWART. Then it would be too far along.

Mr. BAILEY. I want to say if this argument had proceeded on that line then it would have been a question of wisdom and justice and not a question of power. The Senator from Colorado calls attention to the fact that the bill provides that before the State can be admitted it must incorporate certain provisions in its constitution. Undoubtedly the State has a right to do that, and undoubtedly if the State did adopt the constitution according to the terms as read by the Senator from Colorado, and then some officer of the State should attempt to levy and collect taxes, we will say against a homestead, they would plead the constitution of the State and not the act of the Federal Congress; and the constitutional exemption as adopted by the State would be a good defense unless it should be held void as against the fourteenth amendment.

Mr. STEWART. Now, will the Senator allow me to read a passage from the Lone Wolf case, decided in the Supreme Court of the United States in the October term, 1902, which will be found in Volume I of Indian Affairs, Laws, and Treaties, by Kappler, page 1059?

Mr. PATTERSON. Congress recognizes that.

Mr. STEWART. I have the volume here, and I will read it.

Mr. BAILEY. I will hear the Senator.

Mr. STEWART. The Supreme Court decided in the Lone Wolf case as follows:

Now, it is true that in decisions of this court the Indian right of occupancy of tribal lands, whether declared in a treaty or otherwise created, has been stated to be sacred, or, as sometimes expressed, as sacred as the fee of the United States in the same lands. (Johnson *v.* McIntosh (1823), 8 Wheat., 543, 574; Cherokee Nation *v.* Georgia (1831), 5 Pet., 1, 48; Worcester *v.* Georgia (1832), 6 Pet., 515, 581; United States *v.* Cook (1873), 19 Wall., 591, 592; Leavenworth, etc., Railroad Company *v.* United States (1875), 92 U. S., 733, 755; Beecher *v.* Wetherby (1877), 95 U. S., 525.) But in none of these cases was there involved a controversy between Indians and the Government respecting the power of Congress to administer the property of the Indians. The questions considered in the cases referred to, which either directly or indirectly had relation to the nature of the property rights of the Indians, concerned the character and extent of such rights as respected States or individuals. In one of the cited cases it was clearly pointed out that Congress possessed a paramount power over the property of the Indians by reason of its exercise of guardianship over their interests, and that such authority might be implied, even though opposed to the strict letter of a treaty with the Indians. Thus, in Beecher *v.* Wetherby (95 U. S., 525), discussing the claim that there had been a prior reservation of land by treaty to the use of a certain tribe of Indians, the court said (p. 525):

"But the right which the Indians held was only that of occupancy. The fee was in the United States, subject to that right, and could be transferred by them whenever they choose. The grantee, it is true, would take only the naked fee, and could not disturb the occupancy of the Indians; that occupancy could only be interfered with or determined by the United States. It is to be presumed that in this matter the United States would be governed by such considerations of justice as would control a Christian people in their treatment of an ignorant and dependent race. Be that as it may, the propriety or justice of their action toward the Indians with respect to their lands is a question of governmental policy, and is not a matter open to discussion in a controversy between third parties, neither of whom derives title from the Indians."

Plenary authority over the tribal relations of the Indians has been exercised by Congress from the beginning and the power has always been deemed a political one, not subject to be controlled by the judicial department of the Government. Until the year 1871 the policy was pursued of dealing with the Indian tribes by means of treaties, and of course a moral obligation rested upon Congress to act in good faith in performing the stipulations entered into on its behalf. But, as with treaties made with foreign nations (Chinese Exclusion Cases, 130, U. S., 581, 600), the legislative power might pass laws in conflict with treaties made with the Indians. (Thomas *v.* Gay, 169 U. S., 264, 270; Ward *v.* Race Horse, 163 U. S., 504, 511; Spalding *v.* Chandler, 160 U. S., 394, 405; Missouri, Kansas and Texas Ry. Co. *v.* Roberts, 152 U. S., 114, 117; The Cherokee Tobacco, 11 Wall., 616.)

That is the doctrine. Congress has plenary power; and I say when it has once disposed of the matter and put in conditions the State can not interfere with those conditions.

Mr. BAILEY. Mr. President, just a word further.

There is nothing in that decision which conflicts with anything I have said. That decision declares that the status of the Indian is a political question, and to that declaration I heartily subscribe. That decision also declares that in that case it was a question of occupancy of the land, and therefore within the power of Congress, to which I subscribe. But my proposition was that as to the Chickasaws and the Choctaw Indian tribes, though I believe the deed was to the Choctaws and inured to the Chickasaws as well, it is not a question of occupancy. There the United States conveyed to them not a fee simple title, it is true, but it did convey to them and to their descendants so long as they exist as a tribe and occupy it. That, as every lawyer in this Chamber knows, is what is known in legal vernacular as a base or a determinable fee. But so long as the condition upon which such a fee is held continues it is as absolute as a fee as the simple fee. Therefore, so long as the Indians occupied this land as a tribe their right to it was as absolute as any Senator here holds to his homestead; and I declare that the Supreme Court of the United States never has said, and, in my judgment, it never will say, that a law of Congress could annul a deed once executed by the Government of the United States. If it can do that, there is no limitation on the power of the Federal Government.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session the doors were reopened, and (at 5 o'clock and 13 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 28, 1905, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 27, 1905.

POSTMASTER.

WASHINGTON.

George M. Stewart to be postmaster at Seattle, in the county of King and State of Washington, in place of George M. Stewart. Incumbent's commission expired March 3, 1903.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 27, 1905.

SECRETARY OF EMBASSY.

Charles Richardson, of Massachusetts, now secretary of the legation at that place, to be secretary of the embassy of the United States at Rio De Janeiro, Brazil.

MELTER.

Hubert D. Coleman, jr., of Louisiana, to be melter and refiner of the mint of the United States at New Orleans, La.

INDIAN AGENT.

Capt. Jeremiah Z. Dare, United States Army, retired, of the District of Columbia, to be agent for the Indians of the Blackfeet Agency in Montana.

PROMOTIONS IN THE NAVY.

Commander Arthur P. Nazro to be a captain in the Navy, from the 28th day of December, 1904.

Maj. Lincoln Karmany to be a lieutenant-colonel in the Marine Corps, from the 9th day of December, 1904.

Capt. Laurence H. Moses to be a major in the Marine Corps, from the 4th day of June, 1904.

Capt. Wendell C. Neville to be a major in the Marine Corps, from the 9th day of December, 1904.

Capt. Charles M. Thomas to be a rear-admiral in the Navy, from the 12th day of January, 1905.

Lieut. (Junior Grade) Adolphus E. Watson to be a lieutenant in the Navy, from the 1st day of January, 1905.

Medical Inspector George E. H. Harmon to be a medical director in the Navy, from the 15th day of December, 1904.

Medical Inspector Howard Wells to be a medical director in the Navy, from the 1st day of January, 1905.

Surg. Nelson H. Drake to be a medical inspector in the Navy, from the 1st day of January, 1905.

Surg. Middleton S. Guest to be a surgeon in the Navy, from the 20th day of January, 1903.

Passed Assist. Surg. Charles M. DeValin to be a surgeon in the Navy, from the 31st day of January, 1903.

Assist. Surg. Jacob Stepp to be a passed assistant surgeon in the Navy, from the 7th day of June, 1904, upon the completion of three years' service.

Surg. Charles T. Hibbett to be a medical inspector in the Navy, from the 15th day of December, 1904.

POSTMASTERS.

FLORIDA.

Alexander Zipperer to be postmaster at Madison, in the county of Madison and State of Florida.

IOWA.

William D. Jacobsen to be postmaster at Lyons, in the county of Clinton and State of Iowa.

MICHIGAN.

Justin A. Harsh to be postmaster at Tekonsha, in the county of Calhoun and State of Michigan.

Guy C. Mars to be postmaster at Berrien Springs, in the county of Berrien and State of Michigan.

Hugh W. Parker to be postmaster at Bancroft, in the county of Shiawassee and State of Michigan.

MINNESOTA.

Adolphus L. Elliott to be postmaster at Paynesville (late New Paynesville), in the county of Stearns and State of Minnesota.

Truman B. Horton to be postmaster at Stewartville, in the county of Olmsted and State of Minnesota.

Mark M. Woolley to be postmaster at Howard Lake, in the county of Wright and State of Minnesota.

NEW YORK.

Peter Dahl to be postmaster at Tonawanda, in the county of Erie and State of New York.

PENNSYLVANIA.

William N. Boyles to be postmaster at Juniata, in the county of Blair and State of Pennsylvania.

Frank A. Howe to be postmaster at Waterford, in the county of Erie and State of Pennsylvania.

Elizabeth H. Ketcham to be postmaster at Narberth, in the county of Montgomery and State of Pennsylvania.

James H. Saulsbery to be postmaster at Dunlo, in the county of Cambria and State of Pennsylvania.

VIRGINIA.

Lee S. Calfee to be postmaster at Pulaski (late Pulaski City), in the county of Pulaski and State of Virginia.

WEST VIRGINIA.

T. J. Honaker to be postmaster at Beckley, in the county of Raleigh and State of West Virginia.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 27, 1905.*

The House met at 12 o'clock m.

Prayer by Rev. JOHN VAN SCHAICK, Jr.

The Journal of yesterday's proceedings was read and approved.

RESOLUTION IN REGARD TO THE COMMISSION TO THE FIVE CIVILIZED TRIBES IN THE INDIAN TERRITORY.

Mr. SHERMAN. Mr. Speaker, I offer a privileged resolution.

The SPEAKER. The gentleman from New York offers a privileged resolution, which the Clerk will report.

The Clerk read as follows:

Resolution No. 398.

Resolved, That the Secretary of the Interior be, and he is hereby, directed to inform the House of Representatives whether or not any member of the Commission to the Five Civilized Tribes in the Indian Territory, commonly known as "the Dawes Commission," or any clerk or employee in the Indian service in the Indian Territory, who are required to swear that they have no financial interest in any person or corporation dealing in Indian lands, as required by act of Congress approved April 21, 1904, have refused to make said oath and have not drawn their salary because of such refusal, and the name or names of any such officer or employee failing to draw their salaries under said law, and whether or not he has any knowledge of or is any way advised that any such officer or employee has been or is now guilty of dealing in Indian lands through corporations or otherwise.

The amendments were read, as follows:

Line 2, strike out the word "directed" and insert in lieu thereof "requested, if not incompatible with public interests."

Line 7, strike out the word "swear" and insert in lieu thereof the words "make oath;" same line, strike out the word "in" and insert in lieu thereof the word "with."

Lines 12 and 13, strike out the words "failing to draw their salaries under said law."

Line 13, strike out the words "or not" and "any."

Line 15, strike out the words "guilty of" and insert in lieu thereof "engaged in."

Mr. WILLIAMS of Mississippi. Mr. Speaker——

The SPEAKER. Does the gentleman yield?

Mr. SHERMAN. Certainly.

Mr. WILLIAMS of Mississippi. I would like to ask the gentleman from New York what is the necessity of the first amendment. I understand the usual rule is to request the President and direct departmental chiefs.

Mr. SHERMAN. The only fear was it was among the possibilities that the Secretary might be making some investigations with a view of certain rumors, and if that condition existed we did not want to compel him to disclose his hand.

Mr. WILLIAMS of Mississippi. Mr. Speaker, I not only have no objection to the resolution, but I am very heartily in favor of it, and wish that it had come long ago. My only objection to it is, it is late in coming.

The amendments were agreed to.

The resolution as amended was agreed to.

EXPENSES OF THE INAUGURAL CEREMONIES.

Mr. HEMENWAY. Mr. Speaker, I am directed by the Committee on Appropriations to report Senate joint resolution No. 94.

The SPEAKER. The gentleman from Indiana reports a Senate joint resolution from the Committee on Appropriations, which the Clerk will report.

The Clerk read as follows:

Senate joint resolution 94.

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1905, in accordance with such programme as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at $3 per day, there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, $7,000, or so much thereof as may be necessary, the same to be immediately available.

Mr. MADDOX. Mr. Speaker, I would like to inquire what these expenses are. Will it take $7,000 to pay these extra policemen?

Mr. HEMENWAY. The expenditures are to be made under direction of the joint committee of the House and Senate. They erect the stand out here and the seats, and they pay for the policemen, and they pay for such other services as are necessary in carrying out these ceremonies.

Mr. MADDOX. This is for the ceremonies at the Capitol?

Mr. HEMENWAY. Yes; and the expenditures are controlled by the joint committee of the Senate and House, just as they were four years ago. We appropriated $7,000 four years ago, and we are appropriating the same amount this time.

The joint resolution was ordered to be read a third time, and being read the third time, was passed.

On motion of Mr. HEMENWAY, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 6115. An act granting an increase of pension to Edmund B. Kanada—to the Committee on Invalid Pensions.

S. 139. An act granting an increase of pension to Solomon Knight—to the Committee on Invalid Pensions.

S. 2538. An act granting an increase of pension to Samuel A. Thomas—to the Committee on Invalid Pensions.

S. 4214. An act granting an increase of pension to Ella M. Roberts—to the Committee on Invalid Pensions.

S. 5323. An act granting an increase of pension to William Geyser—to the Committee on Invalid Pensions.

S. 6224. An act granting an increase of pension to Anna M. Benny—to the Committee on Invalid Pensions.

S. 2895. An act granting a pension to Benjamin F. Cory—to the Committee on Invalid Pensions.